



07 November 2023

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon and by virtual means at Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 07 November 2023 at 17:00 to transact the business noted below.

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

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

5. Receive Planning Applications 9 - 310

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2022/0112/O	Dwelling & garage at 60m S of 29 Lisnagowan Road, Feroy,	REFUSE

		Dungannon for Mr Derek Montgomery	
5.2.	LA09/2022/0499/RM	2 No. 1.5 storey detached dwellings at to the rear of 11 Adair Gardens, Cookstown for R and F Developments	APPROVE
5.3.	LA09/2022/0606/F	Housing development of 6 detached houses, 18 semi detached houses, associated site works and foul water pumping station adjacent/E of 88 Roughan Road and 48 Drumreagh Road, Newmills, Dungannon for Firtree Developments (Ni) Ltd	APPROVE
5.4.	LA09/2022/1118/F	Single storey dwelling at 120, Killymeal Road, Killymeal House, Dungannon for J and V Construction	REFUSE
5.5.	LA09/2022/1336/O	Replacement dwelling and garage at land approx 100m W of 12 Foygh Road, Dungannon, (access Off Drumreany Road) for Mr Roger McLean	APPROVE
5.6.	LA09/2022/1370/O	Dwelling at lands to the rear of 42,44 and 46 Killyman Street, Moy, adjacent to and immediately S of 50 Killyman Street for Mr Dermot MacNeice	APPROVE
5.7.	LA09/2022/1670/F	Residential development of 44 units; (8 detached and 36 semi-detached dwelling units) with associated landscaping / open space; waste water pumping station; parking; and roads and access onto Annaghmore Road and associated works at lands immediately N of St Patrick's Primary School , 10 Annaghmore Road , Coalisland for Mr Declan McCloskey	APPROVE
5.8.	LA09/2023/0163/O	Replacement dwelling with retention of the existing dwelling for agricultural storage at 50m S of 5 Beaghbeg Road, Cookstown for Benny McAleer	APPROVE
5.9.	LA09/2023/0369/F	Amendment of access location and visibility splay requirement adjacent to 4 Whitebridge Rd , Ballygawley, for Mr Eamon Cassidy	APPROVE

5.10.	LA09/2023/0397/O	Site for a dwelling and domestic garage approx 35m N of 2 Motalee Lane, Desertmartin, at approx 35m N of 2 Motalee Lane, Desertmartin for Mr Michael Gribbin	APPROVE
5.11.	LA09/2023/0402/F	3 detached dwellings adjacent to 7 Desertmartin Road, Moneymore for Mr Marie and Sean Corr	REFUSE
5.12.	LA09/2023/0411/O	Site for a dwelling and domestic garage approx 40m N of 19a Ballyronan Road, Toome for Mr Matt Murphy	REFUSE
5.13.	LA09/2023/0422/O	Site for a 2 storey dwelling and domestic garage on a farm at lands approx 215m E of 5 Rarogan Road,, Augher for Pat McAleer	REFUSE
5.14.	LA09/2023/0467/O	Dwelling and domestic garage in a gap site at land adjacent and NE of 70 Glenhoy Road, Ballygawley for Mr Sean O'Neill	REFUSE
5.15.	LA09/2023/0552/F	Residential development comprising 2 semi detached dwellings and 2 detached dwelling (4 units in total) with private access road and car parking (amended plans) adjacent to and immediately NW of 48 Main Street, Coagh, Cookstown for Nigel Hagan	APPROVE
5.16.	LA09/2023/0612/F	1 no. two storey detached dwelling with garage at land adjacent and E of 146C Drumagarner Road, Kilrea for Mr Niall Dallatt	APPROVE
5.17.	LA09/2023/0650/RM	Dwelling and detached garage at lands 85m SW of 16 Megargy Road, Magherafelt for Declan Donnelly	APPROVE
5.18.	LA09/2023/0690/O	Site for new dwelling in infill site between 42 and 42A Tamnaskeeney Road, Cookstown for Richard McAllister	APPROVE
5.19.	LA09/2023/0694/F	Farm machinery/feed store with handling facilities (no animal housing) at 140m SE of 49 Slate Quarry Road, Pomeroy for Mr John and Brian Lagan	APPROVE

5.20.	LA09/2023/0703/O	Replacement dwelling and garage at 65m NW of 115 Aughrim Road, Magherafelt for Seamus O'Kane	REFUSE
5.21.	LA09/2023/0704/O	Dwelling & garage at 40m NE of 74 Moneyhaw Road, Drummullan, Moneymore for Mr Keith Bell	APPROVE
5.22.	LA09/2023/0735/RM	Site for dwelling on a farm at 250m NE of 19 Derrylattinee Road, Dungannon for Mr Caolan Gildernew	APPROVE
5.23.	LA09/2023/0752/F	LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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'. Background and justification set out by transport consultants letter attached with application. at 63B Anneeter Road, Coagh, Cookstown for Mr Oliver Conlon	REFUSE
5.24.	LA09/2023/0857/RM	Replacement dwelling & garage at Approx 80m SE of 19 Shivey Road, Cookstown for Mr John Causey	APPROVE
5.25.	LA09/2023/0878/F	Alterations and extension to existing dwelling and new shed for hobby room and garden store purposes at 5 Page's Lane, Draperstown for Mr Bosco Tohill	APPROVE

6. Receive Deferred Applications

311 - 548

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2018/1056/F	Additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right	APPROVE

		turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, (in substitution to approved under M/2008/0501/F) for Rahoran Limited	
6.2.	LA09/2020/0729/F	Site for 5 detached dwellings and garages (inclusion of footpath along public road) (additional plans received re footpath provision) at 40m W of 16 Annaghmore Road, Coalisland for Mr Conor Tennyson	APPROVE
6.3.	LA09/2021/1149/F	Access at 11A Strawmore Lane, Doon, Draperstown for E Kelly Esq	APPROVE
6.4.	LA09/2021/1672/F	Change of house type and relocation of dwelling and domestic garage from that approved M/2013/0414/F and domestic garage at approx 100m N of 34 Ferry Road, Coalisland, Dungannon for R Patrick And Mrs Lisa Trainor	REFUSE
6.5.	LA09/2022/0063/O	Replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin, Magherafelt for Mr Rodney MC Knight	REFUSE
6.6.	LA09/2022/0121/F	Retention of farm machinery and animal feed store at 55m N of 199 Glen Road, Maghera for Mr John O'Kane	APPROVE
6.7.	LA09/2022/0249/O	Dwelling & domestic garage on a farm at land adjacent to & immediately S of 14 Tychaney Road, Ballygawley for Jenna Robinson	APPROVE
6.8.	LA09/2022/0437/F	Farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell	REFUSE
6.9.	LA09/2022/1065/O	Dwelling and Garage at 50m S of 37 Moor Road, Coalisland for Niall And Mary Kilpatrick	APPROVE
6.10.	LA09/2022/1277/F	Infill dwelling and detached double garage at lands approx 7m E off 20 Ballymacpeake Road, Portglenone for Mr Feargus Quinn	REFUSE

6.11.	LA09/2022/1408/O	Infill dwelling and domestic garage at 70m NE of 107 Drummerr Lane, Coalisland for Mr John Mc Cabe	APPROVE
6.12.	LA09/2022/1419/O	Single detached bungalow with associated external private amenity space and garage. at lands to the W of 4,5, 6 & 7 Riverdale Drive, Cookstown for Mr Sammy Lyle	REFUSE
6.13.	LA09/2022/1504/O	Site for dwelling and domestic garage at 160m NE of 116 Lurgylea Road, Dungannon for Mr Patrick Clark	REFUSE
6.14.	LA09/2022/1561/O	Site for dwelling & domestic garage at approx 30m S of 26 Grillagh Hill, Maghera for Mr Malachy Scullin	REFUSE
6.15.	LA09/2022/1686/O	Dwelling and garage at 61 Ballynakilly Road, Coalisland, for Mr Terry McCann	APPROVE

7. Receive Dfl Consultation on Review of LDP Regulations 549 - 576
8. Receive Report on Planning Customer Survey 577 - 586
9. Receive Planning Performance Report 587 - 590

Matters for Information

10. Minutes of Planning Committee held on 3 October 2023 591 - 612

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

Matters for Decision

11. Receive Report on Dfl Letter in Relation to LDP

Matters for Information

12. Confidential Minutes of Planning Committee held on 3 October 2023
13. Enforcement Cases Opened
14. Enforcement Cases Closed









## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2022/0112/O	<b>Target Date:</b> 24 March 2022
<b>Proposal:</b> Dwelling & garage	<b>Location:</b> 60M South Of 29 Lisnagowan Road Feroy Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Derek Montgomery 29 Lisnagowan Road Feroy Dungannon BT70 3LH	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

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

### Representations:

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

### Summary of Issues

No representations received.

### Characteristics of the Site and Area

The site is located at lands approx. 60m South Of 29 Lisnagowan Road, Dungannon. The site is a rectangular portion of lands which fronts onto two roads. Some of the lands which surround the site are outlined in blue, indicating ownership and include the building to the NW of the site which is to be replaced. The site itself is sloping, with an increase from the SE portion of the site to the NW. There is existing post and wire fencing along the roadside boundaries with the remainder of the boundaries currently undefined opening to the agricultural field and agricultural buildings. The surrounding area is largely rural in nature, with scattered single dwellings and their associated outbuildings.

### Description of Proposal

Outline planning permission is sought for a dwelling and garage.

### 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 under this application include: 30 Lisnagowan Road. At the time of writing, no third party representations were received.

### Planning History

There is not considered to be any relevant planning history associated with this site. The proposal originally was submitted as dwelling on a farm and there were applications associated with the farm business including a sell of which would have been relevant, however the agent/applicant has since advised that they wish the proposal to be assessed under the CTY 3 Replacement policy given it failed the criterion within CTY 10.

### Planning Assessment of Policy and Other Material Considerations

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

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

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It does not offer any change in policy direction with regards to replacement dwellings.

Policy CTY 1 states that there are a range of types of development which in principle are considered to be acceptable in the countryside. As discussed before, the applicant was originally submitted as a dwelling on a farm application under CTY 10, however the agent was made aware of a sell off related to the farm business and as such has asked that the proposal is assessed under Policy CTY 3. Policy CTY 3 of PPS 21 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external walls are substantially intact.

The structure in question is a single storey building with all of its external walls intact. I don't consider that the building in question exhibits characteristics which would help determine that the application is a dwelling, including chimneys, window and door openings. From my findings on site, noting the internal and external features of the building (shown below in photos 1 – 3), I am not convinced that the building in question represents a genuine replacement opportunity. The agent has been afforded a number



Photo 1 – internal picture from building



Photo 2 – External image of the building



Photo 3 – External image of the building

The agent has indicated the preferred siting which is just SE of the building to be replaced. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted, however as noted before, it is considered the proposal is contrary to the policy criterion held within CTY 3 in that it does not exhibit the essential characteristics of a dwelling. The proposal also lacks any degree of existing landscaping and if approval were to be forthcoming, a landscaping scheme would be required at RM stage.

The proposal intends to create a new access onto Lisnagowan Road. DfI Roads were consulted and have raised no concerns subject to condition.

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s):** Sarah Duggan

**Date:** 25 October 2023



**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2022/0499/RM	<b>Target Date:</b> 8 June 2022
<b>Proposal:</b> Proposed 2 No. 1.5 storey detached dwellings	<b>Location:</b> To The Rear Of 11 Adair Gardens Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> R And F Developments 90 Oldtown Road Castledawson Magherafelt	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	NIEA	PRT LA09-2022-0499-RM SA.PDF
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0499-RM.pdf
Non Statutory Consultee	Rivers Agency	470209 final.pdf
Non Statutory Consultee	NIEA	PRT LA09-2022-0499-RM.PDF
Non Statutory Consultee	NIEA	PRT LA09-2022-0499-RM.PDF
Non Statutory Consultee	NIEA	PRT LA09-2022-0499-RM.PDF

### Representations:

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

### Summary of Issues

There were three objections received in relation to the proposal. The main issues raised within these objections were: Adverse environmental impacts Traffic during construction/ Congestion Character of the Area Bats Roosting Increased noise Pollution Street lighting Infringement of our privacy

### Characteristics of the Site and Area

The site is located within the limit of development for Cookstown as defined within the Cookstown Area Plan 2010. Located approximately 1km south west of the town centre the site lies within an existing residential estate. Access to the proposal is gained via Adair Gardens which connects onto Adair Drive and in turn the Westland Road South. The development road to the proposed dwellings is via the side of no 9, removing the attached garage and adjacent to the boundary with no 7. Site boundaries are a mixture

of conifer type hedging and timber fencing. Within the south western part of the site is existing woodland/scrub area. Levels within the site vary considerably from Adair Gardens estate road to the southern corner of same.

### **Description of Proposal**

The proposal is for a dwelling and domestic garage. The planning application seeks approval of matters reserved from previous outline planning consent re. LA09/2019/1213/O. Outline planning permission was granted for the "Proposed renewal of outline planning approval" on 5th December 2019 therefore the principle of development has already been established on this site with a number of conditions set out on the approval. This current application seeks consent for a number of matters which were reserved at the outline stage.

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

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 7,8, 9,11, 12 and 14 Adair Gardens and 16 Westbury Gardens. At the time of writing, three objections were received.

- Adverse environmental impacts
- Traffic during construction/Congestion
- Character of the Area
- Bats Roosting
- Increased noise
- Pollution
- Street lighting
- Infringement of Privacy

The issues raised above were considered and the principle of this development was established under the outline under planning application on site, LA09/2019/1213/O. I am content this reserved matters application meets the conditions set at outline and for the reasons detailed further above in the main assessment of the proposal the matters reserved including the siting, design, external appearance of the building and landscaping thereto are acceptable for the site and locality. In terms of roads safety DfI Roads were consulted at outline and have been re-consulted under this application and have raised no concerns.

##### Planning History

I/2013/0370/O - Lands to the rear of 9 Adair Gardens, Cookstown - Proposed residential development incorporating the retention of the existing garage (amended description) – Permission Granted

LA09/2019/1213/O - Proposed renewal of outline planning approval - Westland Road South, Lands To The Rear Of 9 Adair Gardens, Cookstown – Permission Granted 5<sup>th</sup>

December 2019

LA09/2017/0150/O - Proposed demolition of workshop and erection of 1 No. 1.5 storey dwelling - To the rear of nos. 9 and 11 Adair Gardens – Permission Granted 22nd November 2018

LA09/2021/1575/RM - Proposed demolition of workshop & erection of 1no. 1.5 storey detached dwelling - To The Rear Of 11 Adair Gardens, Cookstown – Permission Granted 15<sup>th</sup> February 2023

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

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 7: Quality Residential Environments
- PPS 3: Access, Movement and Parking
- Local Development Plan 2030 – Draft Plan Strategy

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

When outline planning permission was granted re. LA09/2019/1213/O a number of conditions were imposed. I am content that the conditions set out have been complied with.

The Plan has defined the settlement limits and allows for development within these limits provided it meets with regional policy requirements of Policy SETT 1 Settlement Limit's. Policy SETT 1 gives favourable consideration to development proposals within settlement limits subject to general criteria including the proposal being in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

The principle of development has already been agreed at outline stage at this site and therefore the only thing left to determine is if the design, siting and landscaping etc of the proposal is suitable at this site. The proposal is for a 2no. dwellings which have the same design. The design includes 1.5 storey dwellings with a small porch to the front. In considering the surrounding context, there is an eclectic mix of dwellings which surround the site, ranging in both size and design. The general layout of the proposal would be respectful of the existing building line in that there is other dwellings set back from the

roadside and it is considered that the dwelling proposed is similar in scale and massing of development in the locality. The design of the dwelling similar in terms of size and scale to some of the closest neighbouring properties. Public view are going to be somewhat limited also due to the set back location from the roadside and the proposed and existing landscaping shown on the plans. The proposal intends to create a new access onto Adair Gardens. The road layout which were agreed at outline stage were provided on the plans. DfI Roads were consulted and have raised no concerns, subject to conditions.

NIEA were consulted on the application given the proposed development's hydrological link to Upper Ballinderry River. A construction method statement and an otter survey was provided and Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and, on the basis of the information provided, is content with the proposal provided they comply with the recommendations and conditions set out in their response.

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

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

#### Condition 2

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 bearing the date stamp 13 April 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 3

NED are content that any potentially significant impacts on the designated sites will be avoided if the methods and mitigation measures provided in the Construction Method Statement (date received 20th March 2023) and Otter Survey (date received 27th July

2023) are adhered to, unless there are any significant changes.

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

**Condition 4**

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

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

**Condition 5**

No development hereby permitted should take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) and full details have been provided to Mid Ulster District Council.

Reason: To ensure that a satisfactory means of sewage disposal is achieved and in the interest of safeguarding residential amenity and public health.

**Signature(s):** Sarah Duggan

**Date:** 26 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	13 April 2022
<b>Date First Advertised</b>	3 May 2022
<b>Date Last Advertised</b>	3 May 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier            9 Adair Gardens Cookstown Tyrone BT80 8PS            The Owner / Occupier            7 Adair Gardens Cookstown Tyrone BT80 8PS            The Owner / Occupier            11 Adair Gardens Cookstown Tyrone BT80 8PS            The Owner / Occupier            8 Adair Gardens Cookstown Tyrone BT80 8PS            The Owner / Occupier            12 Adair Gardens Cookstown Tyrone BT80 8PS</p> <p>The Owner / Occupier            16 Westbury Gardens Cookstown Tyrone BT80 8WE            The Owner / Occupier            18 Westbury Gardens Cookstown Tyrone BT80 8WE</p>	
<b>Date of Last Neighbour Notification</b>	28 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2006/1290/F            Type: F            Status: PG</p> <p>Ref: I/2001/0815/F            Type: F            Status: PG</p> <p>Ref: I/2003/1002/F            Type: F</p>	

Status: PG

Ref: I/2013/0370/O

Type: O

Status: PG

Ref: LA09/2019/1213/O

Type: O

Status: PG

Ref: LA09/2022/0499/RM

Type: RM

Status: PCO

Ref: LA09/2021/1575/RM

Type: RM

Status: PDE

Ref: LA09/2017/0150/O

Type: O

Status: PG

Ref: I/2004/0164/F

Type: F

Status: PG

Ref: LA09/2021/0639/F

Type: F

Status: PG

Ref: I/1983/0216

Type: H13

Status: PG

Ref: I/1977/0377

Type: H13

Status: PG

Ref: I/1999/0544/F

Type: F

Status: PG

Ref: I/1995/0147

Type: F

Status: PCO



Ref: I/2011/0187/F

Type: F

Status: PG

Ref: I/2004/0694/F

Type: F

Status: PG

Ref: I/1994/6101

Type: PREAPP

Status: PCO

Ref: I/2002/0777/F

Type: F

Status: PG

Ref: I/2002/0778/F

Type: F

Status: PG

Ref: I/1999/0156

Type: F

Status: PCO

Ref: I/1994/0404

Type: F

Status: PCO

Ref: I/2014/0089/F

Type: F

Status: PG

Ref: I/2008/0496/F

Type: F

Status: PG

Ref: I/1996/0395

Type: F

Status: PCO

Ref: I/1996/0488

Type: F

Status: PCO

Ref: LA09/2016/1778/NMC

Type: NMC

Status: CG

Ref: I/1985/037901

Type: H13

Status: PG

Ref: I/1985/0379

Type: H13

Status: PG

Ref: LA09/2017/0237/F

Type: F

Status: PG

Ref: I/1995/0501

Type: F

Status: PCO

Ref: LA09/2015/1091/F

Type: F

Status: PG

Ref: I/1999/0657/F

Type: F

Status: APPRET

Ref: I/2009/0204/A

Type: A

Status: CG

Ref: I/2000/0225/F

Type: F

Status: PG

Ref: I/2006/1121/O

Type: O

Status: PR

Ref: I/2009/0399/F

Type: F

Status: PG

Ref: I/1997/0548

Type: F

Status: PCO

Ref: I/1987/0477

Type: F

Status: PG

Ref: I/1987/0237

Type: F

Status: PG

Ref: I/1987/0438

Type: H13

Status: PG

Ref: I/1986/0399

Type: H13

Status: PG

Ref: I/1986/0232

Type: H13

Status: PG

Ref: I/1989/0053

Type: F

Status: PCO

Ref: I/1989/0052

Type: F

Status: PCO

Ref: I/2004/0819/F

Type: F

Status: PG

Ref: I/1988/0258

Type: F

Status: PCO

Ref: I/2007/0389/F

Type: F

Status: PG

Ref: I/1990/0386

Type: F

Status: PCO

Ref: I/1989/0497

Type: F

Status: PCO

Ref: I/1988/0242

Type: F

Status: PCO

Ref: I/1986/0419

Type: H13

Status: PG

Ref: I/1999/0589

Type: A41

Status: 205

Ref: I/1976/0013

Type: H13

Status: CROWN

Ref: I/1988/0178

Type: F

Status: PCO

Ref: I/1986/0386

Type: H13

Status: PG

Ref: I/1986/0402

Type: H13

Status: PG

Ref: I/1977/0421

Type: H13

Status: PG

Ref: I/1977/0283

Type: H13

Status: PR

Ref: I/1986/0231

Type: H13

Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
NIEA-PRT LA09-2022-0499-RM SA.PDF

NI Water - Single Units West-LA09-2022-0499-RM.pdf  
Rivers Agency-470209 final.pdf  
NIEA-PRT LA09-2022-0499-RM.PDF  
NIEA-PRT LA09-2022-0499-RM.PDF  
NIEA-PRT LA09-2022-0499-RM.PDF

**Drawing Numbers and Title**

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

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2022/0606/F	<b>Target Date:</b> 1 July 2022
<b>Proposal:</b> Proposed housing development consisting of 6 detached houses, 18 semi detached houses, associated site works and foul water pumping station	<b>Location:</b> Adjacent/ East Of 88 Roughan Road And 48 Drumreagh Road Newmills Dungannon
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Firtree Developments (Ni) Ltd 97 Derryloughan Road Coalisland Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>  The proposed development is partially outside the settlement limits for Newmills. The works located outside the settlement limits are solely for access purposes to serve the site as there are no viable alternative means of access to the site. This proposal will not have any detrimental impact on the setting of Newmills.	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT LA09-2022-0606-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-0606-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	23-11-2022.docx
Non Statutory Consultee	Rivers Agency	585349 - Final reply.pdf
Statutory Consultee	Rivers Agency	669396 - Final reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response (2).pdf
Statutory Consultee	NIEA	PRT LA09-2022-0606-F.PDF
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site lies primarily within the settlement limits of Newmills in the upper most NE corner. The bulk of the site is within the limits, however a small triangular portion is just outside the limits. This small segment is necessary for access and visibility purposes. There will be no development within this area. The site lies outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010.



The site has a frontage onto Roughan Road, to the NE of the settlement of Newmills. Newmills is a small village located just north of Dungannon and not far from Coalisland. An existing mature treelined hedge and stream defines the limit of development, and this boundary dissects the site to the east. Land falls from the roadside into the site, and then rises steeply to the south. The southern boundary is defined by a native species hedgerow, and further to the south you can see the new housing development of Newberry Lane, which are 2 storey detached and semi-detached dwellings. The western boundary is defined by hedgerow and in parts share a boundary with existing residential development to the west, including a detached dwelling along Roughan Road and the housing development of Drumreagh Crescent which is defined by terraced and semi-detached dwellings. Currently the site is agricultural.

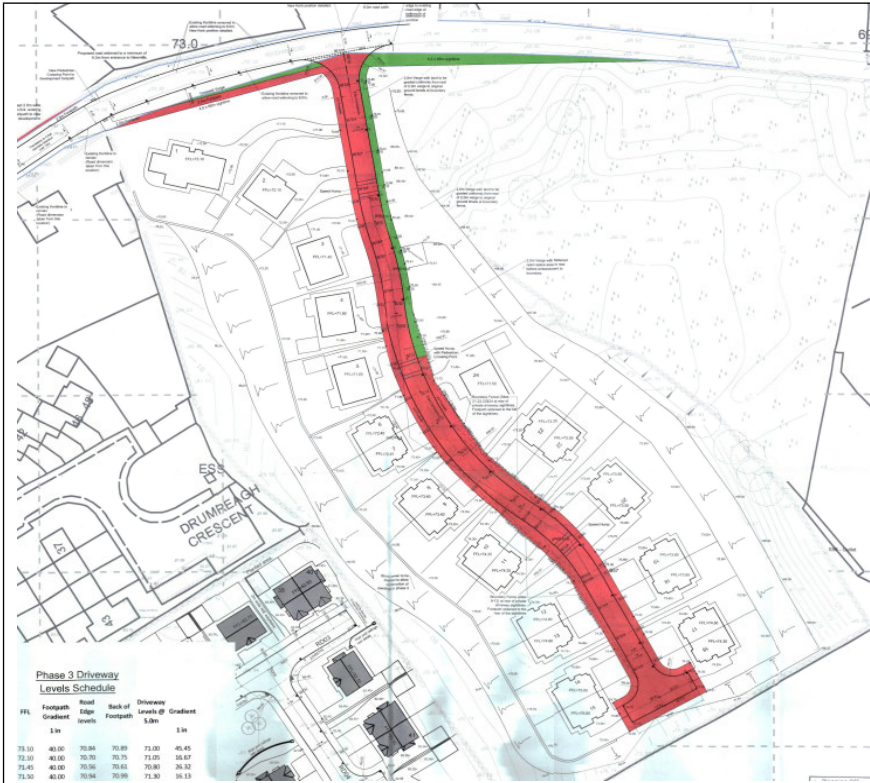




The heart of the village of Newmills lies to the SW, with open countryside to the north and east. The surrounding housing combines a mix of semi detached and terraced housing with the Presbyterian church a short distance to the South.

### **Description of Proposal**

This is a full planning application for housing development consisting of 6 detached houses, 18 semi detached houses, associated site works and foul water pumping station.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### **Planning Act 2011**

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

#### **Area Plan**

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

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

Part of the site is located within the development limits of Newmills as defined in the plan, part falls outside in the countryside. No part of the site is zoned.

Policy SETT1 allows for favourable consideration of development within the limits of development

provided it meets a number of criteria.

#### Relevant Policy

SPPS Strategic Planning Policy Statement  
PPS7 Quality Residential Environments  
PPS21 Sustainable Development in the Countryside  
PPS3 Access, Movement and Parking  
PPS 2 Natural Heritage  
PPS15 Planning and Flood Risk

#### Third Party Representations

At the time of writing no objections have been received.

#### Relevant Planning History

LA09/2021/0380/F - Proposed housing development consisting of 1 detached bungalow and 4 detached two storey houses, with foul water treatment plants and associated site works – Application returned.

#### Recommendation

This proposal seeks permission for a total of 24 units of accommodation. The proposed dwellings are comprised of 6 detached houses, 18 semidetached houses and are located within the development limits of Newmills, however, part of the proposed access and landscaping is located outside the limits of development.

The Strategic Planning Policy Statement which was published in September 2015 has retained PPS 7 which was the policy the original application was assessed under and thus applicable for this application.

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

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

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

There is a clearly defined tree lined hedge and stream on the ground that identifies the limits of development to Newmills, and in my view is a clear boundary demarcating where the village ends, and the countryside begins.

To the southwest of the site is the new housing development of Blackberry Lane. There is a clear access position into the agricultural field where this proposed housing development is located. However, upon exploring this possible access it is evident the levels would not work, the fall would be too great to allow a safe access into the site. This was discussed with senior management at the previous application and this alternative was agreed acceptable whereby a portion of the land outside the limits were to be used for visibility splays so long as no development was to take place within it. In my view this is an

acceptable compromise.



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

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

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

There is sufficient private amenity space provided for each dwelling in this application. A public area of open space has been indicated within the development. I consider this to be acceptable for a development of this size.

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

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

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

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

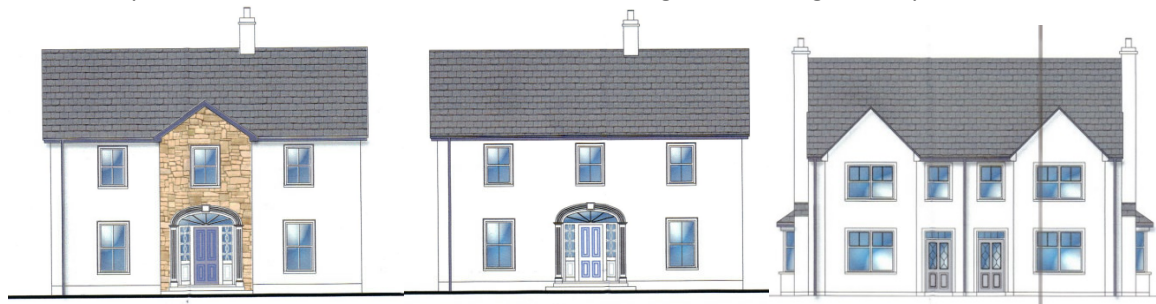
f) adequate and appropriate provision is made for parking;

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

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

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

In terms of design the dwellings are all similar to the new dwellings in Blackberry lane, the main designs are shown below. They are finished in a cream render with a dark tiled roof and some dwellings have a natural stone front projection. There are no issues of overlooking or overshadowing and I find the layout to be acceptable when viewed in the context of existing surrounding development.



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

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

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity of the Addendum to PPS 7 - Safeguarding the Character of Established Residential Areas states planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing where all the criteria set out in Policy QD 1 of PPS 7, and all the additional criteria set out below are met:

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

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

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

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

**Other considerations**

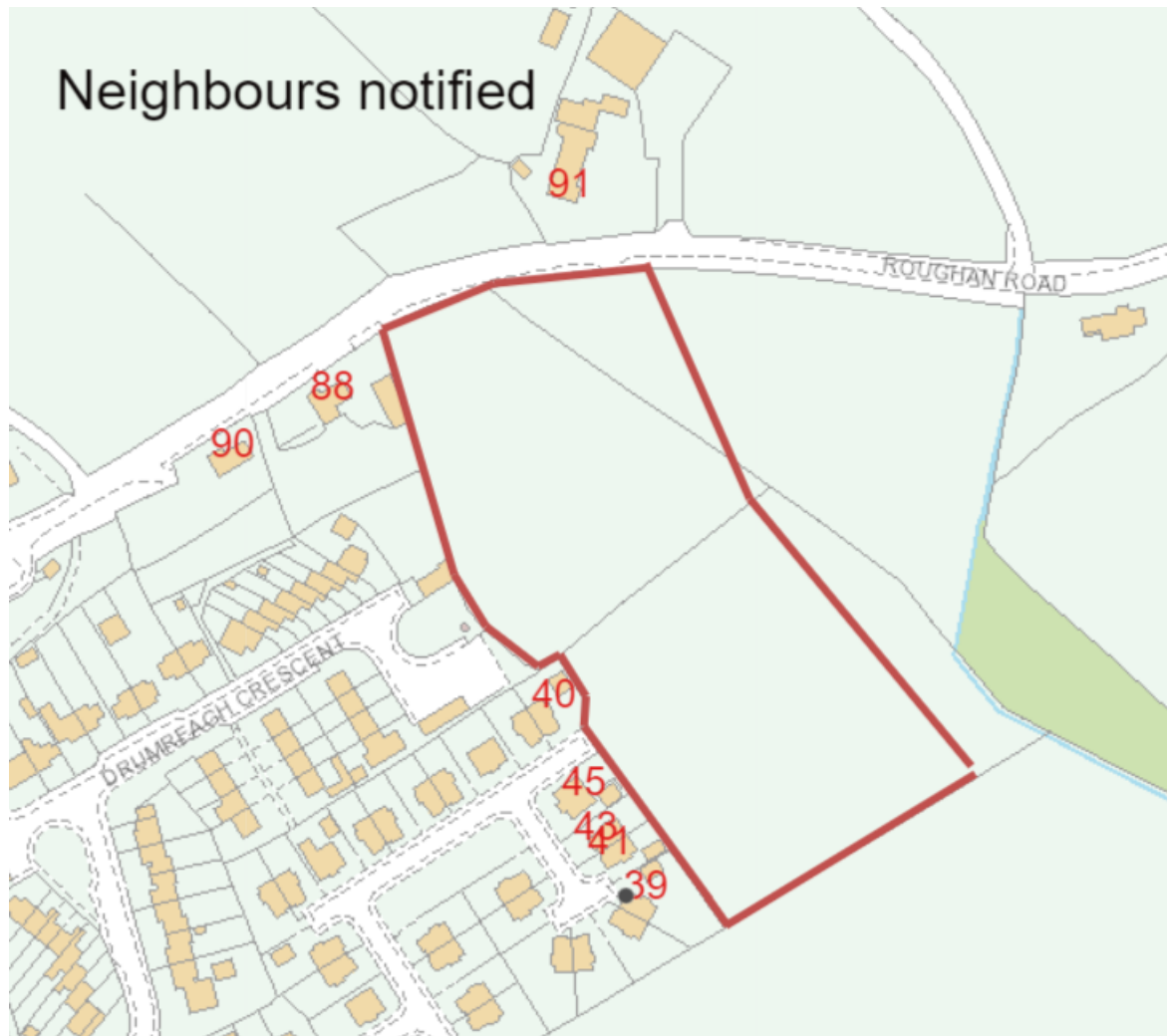
The site is not subject to flooding and there is no open watercourses being culverted. Rivers Agency raise no issues.

DfI Roads, environmental health and NIEA have also been consulted and responded with no objections subject to conditions and informatives

Recommendation Approval.

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

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



**Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

#### Condition 2

Prior to the commencement of the development hereby approved, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council and DFI Rivers. The drainage network shall be constructed in accordance with the agreed plans.

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

#### Condition 3

In the event that previously unknown contamination is discovered falling outside the scheme of the approved remediation strategy, development on the site shall cease pending submission of a written report, detailing the proposed investigation, risk assessment and remediation scheme, for the agreement of The Council in consultation with Northern Ireland Environment Agency.

Development works shall not resume until the developer has received written confirmation from the Council that the additional measures as agreed in any report have been fully implemented.

Reason: In the interests of the health and amenity of future occupiers.

#### Condition 4

The visibility splays of 4.5 metres by 80 metres to the west and 4.5 metres by 98 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 04 Revision B bearing the date stamp 13 December 2022, prior to the commencement of any other works or other development.

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

#### Condition 5

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

REASON: To ensure the orderly development of the site and the road works necessary

to provide satisfactory access to each dwelling.

**Condition 6**

All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.02b dated 10 JUL 2023 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

**Condition 7**

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

The Department for Infrastructure has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 04B bearing date stamp 13 December 2022.

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

**Condition 8**

PSD02 - The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road and provision of the link footway along the Roughan Road have been completed in accordance with the details outlined blue on Drawing Number 04B bearing the date stamp 13 December 2022. The Department for Infrastructure has attached to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

**Signature(s):** Peter Hughes

**Date:** 11 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	6 May 2022
<b>Date First Advertised</b>	24 May 2022
<b>Date Last Advertised</b>	24 May 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  39 Blackberry Lane Dungannon Tyrone BT71 4AZ  The Owner / Occupier  41 Blackberry Lane Dungannon Tyrone BT71 4AZ  The Owner / Occupier  43 Blackberry Lane Dungannon Tyrone BT71 4AZ  The Owner / Occupier  45 Blackberry Lane Dungannon Tyrone BT71 4AZ  The Owner / Occupier  40 Blackberry Lane Dungannon Tyrone BT71 4AZ  The Owner / Occupier  90 Roughan Road Stewartstown Tyrone BT71 4EN  The Owner / Occupier  91 Roughan Road Stewartstown Tyrone BT71 4EN  The Owner / Occupier  88 Roughan Road Stewartstown Tyrone BT71 4EN</p>	
<b>Date of Last Neighbour Notification</b>	30 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2002/0272/O  Type: O  Status: APPRET</p> <p>Ref: M/2002/1173/F  Type: F  Status: PG</p> <p>Ref: M/2003/0889/O  Type: O  Status: PR</p>	

Ref: M/1978/0725  
Type: H13  
Status: PG

Ref: M/1989/0221  
Type: F  
Status: PCO

Ref: M/1976/0476  
Type: H13  
Status: PG

Ref: LA09/2017/0350/F  
Type: F  
Status: PG

Ref: LA09/2020/0324/DC  
Type: DC  
Status: AL

Ref: LA09/2018/1676/DC  
Type: DC  
Status: AL

Ref: LA09/2020/0322/DC  
Type: DC  
Status: AL

Ref: M/1976/0018  
Type: H13  
Status: PG

Ref: LA09/2021/0380/F  
Type: F  
Status: APPRET

Ref: LA09/2022/0606/F  
Type: F  
Status: PCO

Ref: M/2004/0089/Q  
Type: PREAPP  
Status: PCO

Ref: M/2004/0493/F

Type: F  
Status: PG

Ref: M/1999/0385  
Type: F  
Status: PCO

Ref: M/2006/1150/O  
Type: O  
Status: APPRET

Ref: M/2006/2063/O  
Type: O  
Status: PG

Ref: M/1995/0660  
Type: F  
Status: PCO

Ref: M/1988/0245  
Type: H13  
Status: PG

Ref: M/2007/0021/F  
Type: F  
Status: PG

Ref: M/2009/0568/F  
Type: F  
Status: PG

Ref: M/2000/0420/F  
Type: F  
Status: PG

Ref: M/1994/0479  
Type: O  
Status: PCO

Ref: M/1996/0246  
Type: F  
Status: PCO

Ref: M/2003/0593/F  
Type: F  
Status: PG

**Summary of Consultee Responses**

NIEA-PRT LA09-2022-0606-F.PDF  
Environmental Health Mid Ulster Council-Planning response.pdf  
NI Water - Multiple Units West-LA09-2022-0606-F.pdf  
DFI Roads - Enniskillen Office-23-11-2022.docx  
Rivers Agency-585349 - Final reply.pdf  
Rivers Agency-669396 - Final reply.pdf  
Environmental Health Mid Ulster Council-Planning response (2).pdf  
NIEA-PRT LA09-2022-0606-F.PDF  
DFI Roads - Enniskillen Office-Conditions.docx

**Drawing Numbers and Title**

Roads Details	Plan Ref: 04B
Roads Details	Plan Ref: 05
Roads Details	Plan Ref: 04
Proposed Plans	Plan Ref: 03
Site Layout or Block Plan	Plan Ref: 02
Site Location Plan	Plan Ref: 01
Roads Details	Plan Ref: 4A
Proposed Plans	Plan Ref: 10
Site Layout or Block Plan	Plan Ref: 2B
Garage Plans	Plan Ref: 7
Proposed Plans	Plan Ref: 8
Proposed Plans	Plan Ref: 9

**Notification to Department (if relevant)**

Not Applicable

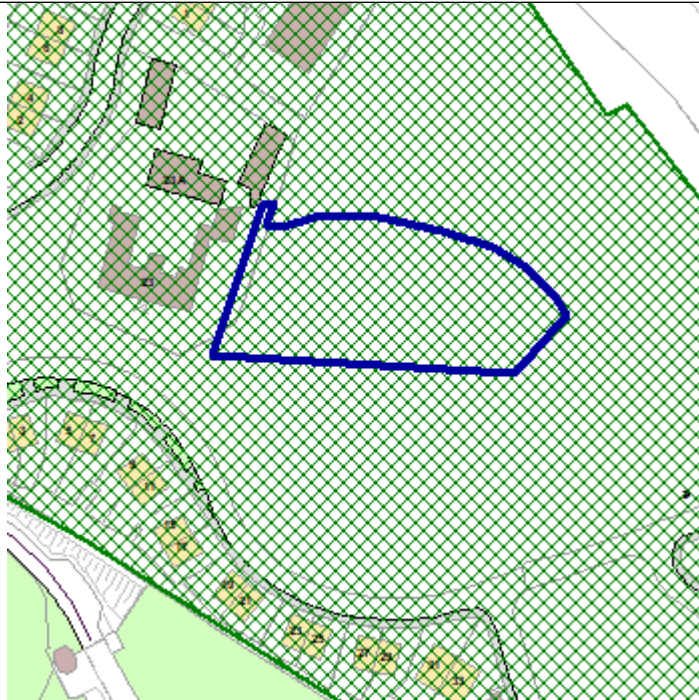


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2022/1118/F	<b>Target Date:</b> 18 October 2022
<b>Proposal:</b> Erection of single storey dwelling	<b>Location:</b> Site 120, Killymeal Road, Killymeal House, Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> J And V Construction 30 Creenagh Road Dungannon BT71 6HB	<b>Agent Name and Address:</b> Clarman Ltd Unit 1 33 Dungannon Road Coalisland BT71 4HP
<b>Executive Summary:</b> <p>The site on an area shown as open space on a previous planning approval but the agent has stated the proposal is for a dwelling associated with the Northern Ireland Housing Executive. In OS1 in PPS 8 there is an exception to the loss of open space where it would bring substantial community benefits that would outweigh the loss of open space.</p> <p>The application site is adjacent to Killymeal House which is a listed building so Historic Environment Division were consulted as the statutory authority. HED have concerns about the scale, massing, design and location of the proposed dwelling. At the time of writing no revised plans for the siting and design of the dwelling have been received.</p> <p>NI Water have recommended the proposal for refusal as there is no capacity at the Dungannon WasteWater Treatment Works. At the time of writing no revised plans have been submitted which show a septic tank or treatment plant at the site.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Geological Survey NI (DfE)	3148 MUDC Planning. Site 120 Killymeal Road Killymeal House Dungannon.doc
Statutory Consultee	NI Water - Single Units West	LA09-2022-1118-F.pdf
Statutory Consultee	MUDC Environment and Conservation Team	LA09.2022.1118.F RECON 05.04.2023.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation further info.docx
Non Statutory Consultee	MUDC Environment and Conservation Team	LA09.2022.1118.F RECON.pdf
Statutory Consultee	NI Water - Single Units West	LA09-2022-1118-F.pdf
Statutory Consultee	Historic Environment Division (HED)	

<b>Representations:</b>	
Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<b>Characteristics of the Site and Area</b>	
<p>The application site is within the settlement limits of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is urban in character and the predominant land uses within the surrounding area are leisure, residential and educational. The site is set within a housing development which is currently under construction and within the Killymeal House which is a listed building. Killymeal House and grounds was a former MOD site and it was listed in 1991. Following a fire in the main house, it is in a poor state of repair. However as part of the development of the wider site, and including this proposal, Killymeal House is being brought back to its former glory and used for housing units.</p> <p>The application site is an elevated site to the southeast of Killymeal House, with a line of mature trees located along the western boundary which are the subject of a Tree Preservation Order. There are some spoil heaps from surrounding development located on the site, along with a construction compound, machinery and building materials. Adjacent to the application site is a housing development under construction which is mainly semi-detached dwellings interspersed with single bungalows. Immediately north of the site is approval LA09/2020/0537/F which is predominantly semi-detached dwellings and there is 1no. bungalow in the southwest corner.</p>	
<b>Description of Proposal</b>	
<p>This is a full application for erection of single storey dwelling at site 120, Killymeal Road, Killymeal House, Dungannon.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b>	
<b><u>Policy Consideration</u></b>	

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

### **Representations**

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

### **Planning History**

M/2008/0425/F - Construction of housing development consisting of 41 no. units in total (33 no apartments & 8 no. townhouses) & parking and landscaping - Lands To The North And West And Adjacent To Killymeal House, Killymeal Road, Dungannon – permission granted 11<sup>th</sup> November 2010.

LA09/2015/0241/F - 20no dwellings, 2 storey in height, with associated carparking and landscaping (amended scheme) - Killymeal House And Adjacent Lands, Killymeal Road, Dungannon - permission granted 20<sup>th</sup> January 2017.

LA09/2017/1239/F - Erection of 3 dwellings and conversion of existing building to 2 dwellings - Killymeal House and Adjacent Lands, Killymeal Road, Dungannon - permission granted 27<sup>th</sup> July 2020.

LA09/2017/1238/F - 21 Dwellings 2 Storey in height with associated car parking and landscaping - Killymeal House and Adjacent Lands, Killymeal Road, Dungannon - permission granted 26<sup>th</sup> February 2019,

LA09/2018/1231/F - Proposed development comprising of 8 semidetached dwellings 2No. 4 block dwellings. 1 detached dwelling, a residential apartment block with 2 units and a second apartment block with 4 units (total 23 residential properties) with associated car parking and landscaping - Killymeal House and Adjacent Lands Killymeal Road Dungannon - permission granted 29<sup>th</sup> March 2019.

LA09/2018/0385/F - Proposed repairs and reinstatement works to listed building, for conversion into office accommodation - Killymeal House, Killymeal Road, Dungannon – permission granted 18<sup>th</sup> September 2018.

LA09/2020/0537/F - Housing development comprising of 14 no. semidetached dwellings, 7 no. block of 3 dwellings, 1 no. block of 4 dwellings, and 1 detached bungalow (40 no. units total) with associated carparking and landscaping - permission granted 9<sup>th</sup> September 2021.

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

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



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

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

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

The proposal is for a single storey dwelling for bespoke accommodation to address additional medical needs. As there are other detached dwellings interspersed within the adjacent housing development, I am content with the principle of a single dwelling at the site.

The proposed finishes of the dwelling are smooth rendered walls, natural slate roof tiles and cast-iron rainwater goods. I have no concerns about the proposed finishes, and I consider they are sympathetic to the adjacent listed building. I consider the scale, form, and design to be not sensitive to the size, character and function of the settlement. The massing of the development is overly complicated with two front projections and four pillars on the front elevation as shown in figure 1 below. The footprint of the dwelling is also large, but the agent has stated that there needs to be space in each room for accessibility.



Figure 1 – Image of front elevation of proposed dwelling.

I emailed the agent on the 19<sup>th</sup> December 2022, 22<sup>nd</sup> June 2023, 4<sup>th</sup> September 2023 asking for a revised design for the dwelling to address Historic Environment’s concerns about the design of the dwelling and at the time of writing no revised plans have been received.

There is an elevated topography at the site, but the finished floor level has been shown to be only 1m higher than the finished floor level of adjacent Killymeal House. The applicant has submitted a street scene as shown in figure 2 which shows the proposed

dwelling in the context of the surrounding area. There is a backdrop of existing trees and there are no critical views from the roadside. However, the massing and design of the dwelling is not a simple form and will dominate the immediate area.



Figure 2 – 3d view of proposed dwelling in the context of the listed building.

There are no other dwellings abutting the application site, so I am content there are no issues with overlooking, overshadowing or dominance.

The application site is directly adjacent to Killymeal House which is a Grade B1 listed building so Historic Environment Division were consulted as the statutory authority on conservation interests. In their latest consultation response on the 11<sup>th</sup> May 2023 HED stated the scale and footprint of the proposed dwelling is too large and the massing is overcomplicated. Also, HED considers the location and alignment is not appropriate and will have a detrimental impact on the listed building at Killymeal House. The proposed dwelling is larger than adjacent dwellings which are mainly semi-detached dwellings. There is a single storey dwelling approved under LA09/2020/0537/F as shown in figures 3 – 5. This dwelling has a simple form and the scale and massing fits with the character of adjacent dwellings in comparison with the proposed dwelling in this application. The approved dwelling is also in the corner of the site so is not located in a prominent location.

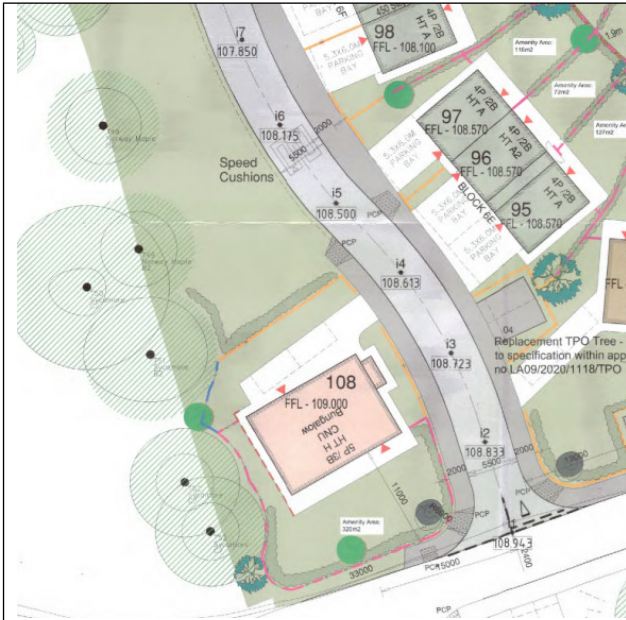
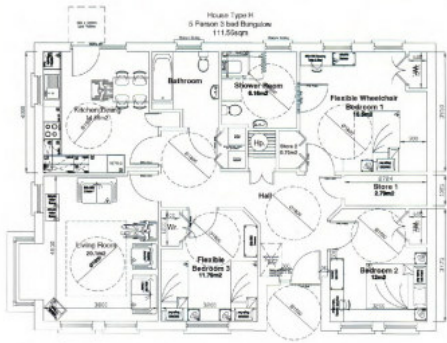


Figure 3 - Image of siting of approved single storey dwelling under LA09/2020/0537/F.



Proposed Front Elevation  
Scale 1 : 1 0 0

**Schedule of Finishes**  
 Roof - Black Slate effect Concrete Tiles.  
 Walls - Render in mixed colours. All Masonry Paint colours are to be selected from the Dulux Heritage Range.  
 Windows - Timber effect uPVC.  
 Rainwater Goods - Black Heavy Cast Aluminium.



Proposed Ground Floor Plan  
Scale 1 : 1 0 0

Figure 4 – Image of elevation and floor plan of approved single storey dwelling under LA09/2020/0537/F.



Figure 5 – Street Section of approved single storey dwelling under LA09/2020/0537/F.

An email was sent on the 4<sup>th</sup> September requesting that the applicant and agent reconsider the design of the proposed dwelling based on HED’s comments and at the time of writing no revised plans have been submitted. A previous email was sent on the 22<sup>nd</sup> June 2023 requesting amended plans and no revised plans were submitted.

Mid Ulster Council Conservation Officer was also consulted as there are trees in the immediate vicinity which are under a Tree Protection Order. The consultation response stated there are no concerns about the proposal subject to conditions about the tree works. The agent has provided an Arboricultural Report which demonstrates that the TPO can be safeguarded and protected.

The proposal involves new access to the site and is accessed via a private car park approved under LA09/2020/0537/F. DFI roads were consulted and were content with the proposal subject to conditions. The applicant has not shown immediately adjacent to the dwelling for the parking of at least two cars, but three car parking spaces have been taken from the private car park approved under LA09/2020/0537/F.

As the proposal is within the settlement limit of Dungannon NI water were consulted. NI Water responded in their consultation response on the 26<sup>th</sup> September 2022 that there is not sufficient capacity at the wastewater treatment works within Dungannon. The agent has argued that there is already extant approval at the site and there is no need for a septic tank or treatment works. The adjacent approval LA09/2020/0537/F is a separate development site, and this proposal is deemed as a new site. Currently NI Water are only approving extant permissions to the sewage network due to ongoing issues with capacity at the wastewater treatment works. At the time of writing no revised plans have been submitted showing a septic tank or treatment plant. If the applicant wants connection to the sewage network NI Water have asked for a PDE Impact Assessment to be submitted. The issue of sewage could be negative conditioned that the development cannot commence until it is discharged by the Council. The agent sent an email on the 4<sup>th</sup> September 2023 stating the site has capacity for 125 dwellings but this application is for a new connection to the sewage network and there is currently no capacity within Dungannon.

Overall, I consider the proposal does not meet all the criteria in SETT 1.

## **Planning Policy Statement 7 – Quality Residential Environments**

### **Policy QD 1 – Quality in New Residential Development**

I believe the proposal does not respect the surrounding context as it is not appropriate to the character and topography of the site. The proposal is for a single storey dwelling on an elevated site, but it has a complicated massing with front projections and pillars. I consider the proposed dwelling will dominate the landscape.

There are no archaeological features within the vicinity, but the site is adjacent to Killymeal House which is a Grade B1 listed building. As stated earlier in the assessment HED have concerns about the location, scale and massing of the dwelling and consider the proposal will have a negative impact on the listed building.

I am content there is sufficient private open space at the site and due to the scale of the development there is no requirement for public open space. The application site is part of a portion of land which has been shown as public open space on approval LA09/2020/0537/F. The proposal will involve the loss of open space but there is an agreement between Planning and the NIHE that proposals that include the loss of open space will be acceptable where they bring substantial community benefits. The agent has stated the proposed dwelling is for an individual with additional medical needs and requires a dwelling with additional space for turning in each room. As HED have concerns about the proposal it was agreed in discussions with the senior planner that an exception cannot be made in this case.

To the scale of the development as a single dwelling there is no requirement for neighbourhood facilities.

The site is within the settlement limit of Dungannon, so I am content there is adequate provision for walking and cycling. The site is within a larger housing development which is accessed off Killymeal Road, which has footpaths providing pedestrian access to the main shopping areas within Dungannon.

I do not consider there is sufficient provision for parking and turning of cars at the site. The applicant has shown three car parking spaces taken from an adjacent approval but there is no parking or turning of cars adjacent to the dwelling. It shows on the block plan parking at the end of the driveway and then the owner/occupier will have to walk up the driveway to the dwelling.

As stated earlier in the assessment I consider the design and massing of the proposed dwelling is not acceptable.

As there are no dwellings directly adjacent to the application site, I am content there will not be unacceptable overshadowing, loss of light or overlooking.

The proposed dwelling is within an area where there are other dwellings in the immediate vicinity which will assist in deterring crime and promoting personal safety.

Having accessed all the evidence, I do not consider the proposal meets all the criteria in

PPS 7.

## **Planning Policy Statement 6 – Planning, Archaeology, and the Built Heritage**

### **Policy BH 11 – Development affecting the setting of a Listed Building**

As stated earlier in the assessment, HED were consulted as the site is adjacent to Killymeal House which is a listed building. HED in their consultation response consider the footprint is too large and the massing is over complicated. HED considers a dwelling that cannot be absorbed at this site without having a negative impact on the listed building. HED do acknowledge the proposed finishes on the dwelling do use sympathetic and traditional building materials. The proposed external finishes are sandstone rendered walls, natural slate roof tiles and cast-iron downpipes. I have no concerns about the external finishes of the proposed dwelling. As the proposal is for a dwelling and residential is the predominant land use in the area, I have no concerns. I consider the proposal does not meet all the criteria in BH 11.

## **Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation**

### **Policy OS 1 – Protection of Open Space**

The application site has been shown as an area of public open space on planning approval LA029/2020/0537/F. Previous approvals have been constructed around the land at the site and to the east of it as it is to be maintained as open space. Annex A in PPS 8 states that open space is not only areas where it has been specifically designated but includes iii amenity green space including informal recreation spaces, communal green spaces in and around houses and village greens. I consider the land which the application site is located on can be considered amenity green space.

OS1 states there is a presumption against the loss of open space irrespective of its physical condition and appearance but there are exceptions to the policy. An exception will be permitted where it is shown the redevelopment will bring substantial community benefits that outweigh the loss of open space. The Northern Ireland Housing Executive have stated they are involved with this proposal and the dwelling is to cater for a person with additional medical needs. Members are also advised NIHE have a Joint Protocol with Planning that recognizes there may be circumstances where existing open space can be developed. In considering this development the protocol sets out information that is necessary to consider if development meets with the exception. However as Historic Environment Listed Buildings Division have raised concerns about the proposal and the impact on adjacent Killymeal House I consider the proposal cannot be considered an exception to OS1.

## **Planning Policy Statement 3 – Access, Movement and Parking**

### **Policy AMP 2 – Access to Public Roads**

The application site does not directly access Killymeal Road but there are changes to the layout of the approved road layout plans. DFI roads were consulted and are content with the proposal.

## **Other Considerations**

I have checked the statutory map viewers, and I am content there are no other NED, HED, flooding or geological issues at the application site.

## **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it does not meet the criteria in SETT 1 in the Plan, QD1 in PPS 7, BH 11 in PPS 6 and OS 1 in PPS 8.

## **Refusal Reasons**

### **Reason 1**

Contrary to Policy SETT 1 in the Dungannon and South Tyrone Area Plan 2010 in that the proposal is not sensitive to the character of the settlement in terms of massing and design of the proposed dwelling. The proposal conflicts with recognized conservation interests in the form of the adjacent listed building and there are not satisfactory arrangements for sewage disposal.

### **Reason 2**

Contrary to QD1 Quality in New Residential Development in PPS 7 in that the development does not respect the surrounding context in terms of massing and appearance of the building. The proposal will have an unacceptable impact on the setting of the adjacent listed building at Killymeal House.

### **Reason 3**

Contrary to Policy OS 1 Protection of Open Space in PPS 8 as Historic Environment Listed Buildings Division have raised concerns about the impact on adjacent Killymeal House I consider the proposal cannot be considered an exception to OS1.

### **Reason 4**

Contrary to BH 11 Development affecting the setting of a Listed Building in PPS 6 in that the development if permitted would have an unacceptable impact on the setting of the adjacent listed building at Killymeal House in terms of scale, massing and location of the proposed dwelling.

**Signature(s):** Gillian Beattie

**Date:** 17 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	5 July 2022
<b>Date First Advertised</b>	21 July 2022
<b>Date Last Advertised</b>	21 July 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier Killymeal House 23 Killymeal Road Dungannon Tyrone BT71 6LJ The Owner / Occupier 23A Killymeal Road Dungannon Tyrone BT71 6LJ	
<b>Date of Last Neighbour Notification</b>	14 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2018/0347/LBC Proposals: Proposed conversion of existing two storey outbuilding within setting of Listed Building Killymeal House (Historic Buildings Ref HB 13/20/033) with two no. two storey semi detached dwellings. Decision: CG Decision Date: 27-JUL-20</p> <p>Ref: M/1974/0031 Proposals: TYPE K2.2 TELEPHONE EXCHANGE Decision: PG Decision Date:</p> <p>Ref: LA09/2019/0502/DC Proposals: Discharge of Condition No 12 of Planning Approval LA09/2018/1231/F Decision: AL Decision Date: 12-JUN-19</p> <p>Ref: LA09/2017/1238/F Proposals: 21 Dwellings 2 Storey in height with associated car parking and landscaping Decision: PG Decision Date: 26-FEB-19</p>	

Ref: M/2002/0313/O

Proposals: Masterplan of New Road, Playing fields and development of replacement new building St Patricks Academy (boys & Girls) and St Patricks College

Decision: PG

Decision Date: 14-MAY-03

Ref: LA09/2022/1044/DC

Proposals: discharge of conditions 20,21 and 22 relating to LA09/2020/0537/F

Decision:

Decision Date:

Ref: LA09/2022/1118/F

Proposals: Erection of single storey dwelling

Decision:

Decision Date:

Ref: LA09/2018/0251/DC

Proposals: Discharge of Planning Conditions 8-14 of Planning Approval

LA09/2015/0241/F

Decision: AL

Decision Date: 03-JUL-18

Ref: LA09/2018/0385/F

Proposals: Proposed repairs and reinstatement works to listed building, for conversion into office accommodation.

Decision: PG

Decision Date: 18-SEP-18

Ref: LA09/2018/1234/O

Proposals: Outline application for proposed extension of existing residential development (Sycamore Drive, Killymeal Road, Dungannon) to provide for 2 storey dwellings.

Decision: PG

Decision Date: 11-APR-19

Ref: LA09/2020/1062/DC

Proposals: Discharge of Conditions 6, 7 & 8 of LA09/2018/1231/F.

Decision: AL

Decision Date: 26-APR-21

Ref: LA09/2018/0375/LBC

Proposals: Proposed repairs and reinstatement works to Listed Building Killymeal House (Historic Buildings Ref HB13/20/033) for conversion into office accommodation.

Decision: CG

Decision Date: 18-SEP-18

Ref: LA09/2016/0627/DC

Proposals: Discharge of condition 4 of planning approval M/2008/0425/F

Decision: AL

Decision Date: 27-MAY-16

Ref: LA09/2017/0349/DC

Proposals: Discharge of Planning Condition 16 on LA09/2015/0241/F

Decision: AL

Decision Date: 15-MAY-17

Ref: LA09/2017/0551/NMC

Proposals: Changes to approved finishes to proposed dwellings .To include change from natural slate to slate effect concrete roof tiles and change from timber windows to UPVC coloured woodgrain timber effect windows

Decision: CR

Decision Date: 05-MAY-17

Ref: LA09/2018/1462/F

Proposals: Alterations ,extension, repair and reinstatement to existing residential outbuildings associated with listed building, Killymeal House,HB Ref HB13/20/023 to form 11 No. 1 bedroom residential units

Decision: PG

Decision Date: 08-DEC-20

Ref: LA09/2015/0241/F

Proposals: 20no dwellings, 2 storey in height, with associated carparking and landscaping (amended scheme).

Decision: PG

Decision Date: 20-JAN-17

Ref: M/2005/0579

Proposals: Development Potential of Killymeal House

Decision: EOLI

Decision Date: 13-JUN-05

Ref: LA09/2017/0649/F

Proposals: Vary Condition No 15 of Planning Approval LA09/2015/0241/F

Decision: PG

Decision Date: 02-OCT-17

Ref: M/2008/0425/F

Proposals: Construction of housing development consisting of 41 no. units in total (33 no apartments & 8 no. townhouses) & parking and landscaping

Decision: PG

Decision Date: 11-NOV-10

Ref: LA09/2018/1463/LBC

Proposals: Alterations, extension, repair and reinstatement to existing residential outbuildings associated with listed building, Killymeal House, HB Ref HB13/20/023 to form 11 No. 1 bedroom residential units

Decision: CG

Decision Date: 08-DEC-20

Ref: M/2014/0073/PREAPP

Proposals: Development of Killymeal House

Decision:

Decision Date:

Ref: LA09/2020/1118/TPO

Proposals: Proposal for consent to fell a tree protected by a TPO (T65 scrub sycamore)

Decision: WTPOG

Decision Date: 01-OCT-20

Ref: LA09/2019/0625/TPO

Proposals: Proposal for consent to carry out works to a Protected Tree

Decision: WTPOG

Decision Date: 23-MAY-19

Ref: LA09/2017/0664/TPO

Proposals: Proposal for consent to carryout works to a protected tree

Decision: WTPOG

Decision Date: 29-JUN-17

Ref: M/2007/1303/Q

Proposals: Housing Developments

Decision: ESA

Decision Date: 10-MAR-08

Ref: LA09/2018/1231/F

Proposals: Proposed development comprising of 8 semi detached dwellings 2No. 4 block dwellings. 1 detached dwelling ,a residential apartment block with 2 units and a second apartment block with 4 units (total 23 residential properties) with associated car parking and landscaping

Decision: PG

Decision Date: 29-MAR-19

Ref: LA09/2020/0183/DC

Proposals: Discharge of Condition No 9 of Planning Approval LA09/2017/1238/F.

Decision: AL

Decision Date: 29-APR-20

Ref: LA09/2019/0433/DC

Proposals: Discharge of Condition 11 of Planning Permission LA09/2017/1238/F.

Decision: AL  
Decision Date: 21-AUG-19

Ref: LA09/2020/0537/F  
Proposals: Housing development comprising of 14 no. semi detached dwellings, 7 no. block of 3 dwellings, 1 no. block of 4 dwellings, and 1 detached bungalow (40 no. units total) with associated carparking and landscaping  
Decision: PG  
Decision Date: 09-SEP-21

Ref: LA09/2017/1239/F  
Proposals: Erection of 3 dwellings and conversion of existing building to 2 dwellings.  
Decision: PG  
Decision Date: 27-JUL-20

Ref: M/1989/0091  
Proposals: 25 metre high aerial with 1.2M dish  
Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation full approval.docx  
Historic Environment Division (HED)-  
Geological Survey NI (DfE)-3148 MUDC Planning. Site 120 Killymeal Road Killymeal House Dungannon.doc  
NI Water - Single Units West-LA09-2022-1118-F.pdf  
MUDC Environment and Conservation Team-LA09.2022.1118.F RECON 05.04.2023.pdf  
Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-Roads Consultation further info.docx  
MUDC Environment and Conservation Team-LA09.2022.1118.F RECON.pdf  
NI Water - Single Units West-LA09-2022-1118-F.pdf  
Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01 REV 1  
Site Layout or Block Plan Plan Ref: 02 REV 1  
Cross Sections Plan Ref: 04 REV 1  
Site Layout or Block Plan Plan Ref: 05  
Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 01-03  
Proposed Plans Plan Ref: 02-01  
Levels and Cross Sections Plan Ref: PH 6-3-05-01

**Notification to Department (if relevant)**

Not Applicable

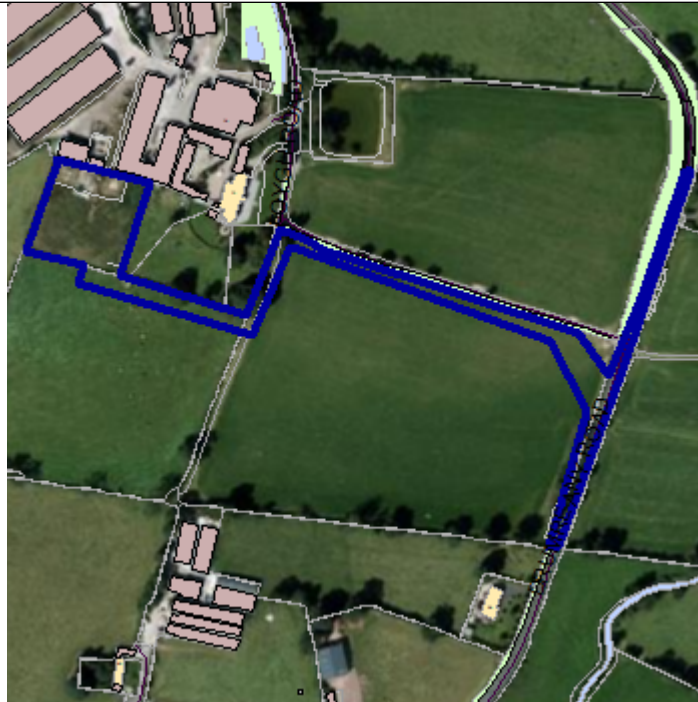


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2022/1336/O	<b>Target Date:</b> 16 December 2022
<b>Proposal:</b> Replacement Dwelling and Garage	<b>Location:</b> Land Approx 100M West Of 12 Foygh Road Dungannon (Access Off Drumreany Road)
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Roger McLean 21 Tullyaran Road Dungannon BT70 3HH	<b>Agent Name and Address:</b> Henry Marshall Brown Architecture Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  Application is being presented to Council as one no. objection has been received citing concerns with possible objections about the level of emissions from the objector's poultry unit which is in close proximity to the site. Committee are also asked to consider that the application dwelling qualifies for replacement and meets policy tests, however; concerns have been raised by Environmental Health and NIEA Industrial Pollution & Radiochemical Inspectorate regarding the close proximity to the poultry units. An alternative site was offered to alleviate these concerns but the applicant declined the offer and wishes this site to be determined.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	No objection, subject to conditions.FORM RS1 STANDARD.docRoads outline.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2022.1336.0 Foygh Rd 2023.doc
Statutory Consultee	NIEA	PRT LA09-2022-1336-O.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	NIEA	PRT LA09-2022-1336-O.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

Letters of Support	0
Letters Non Committal	0



Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues**

One no. objection has been received citing concerns with possible objections about the level of emissions from the objector's poultry unit which is in close proximity to the site. The application dwelling qualifies for replacement and meets policy tests, however; concerns have been raised by Environmental Health and NIEA Industrial Pollution & Radiochemical Inspectorate regarding the close proximity to the poultry units. An alternative site was offered to alleviate these concerns but the applicant declined the offer and wishes this site to be determined.

**Characteristics of the Site and Area**



The site is a 0.97ha parcel of ground located West Of 12 Foygh road, with access onto the Drumreany road and lies approximately 600m north-east of Castlecaulfield. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red comprises a 1 ½ storey derelict dwelling with a projection to the rear as well as a walled area to the south of the dwelling and the access to the public road. This access runs parallel with an existing access laneway. The site is located within an extensive poultry and pig unit to the north. The site is square in shape and is walled on all boundaries, with the smaller

walled area contained within the larger site.

There is significant development to the north of the as the dwelling lies at the southern most edge of an existing extensive poultry and pig unit with numerous agricultural sheds to the north as well as a 2 storey dwelling.

### **Description of Proposal**

Proposed replacement Dwelling and Garage

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

#### **Policy Consideration**

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

#### **Relevant Histories**

There are no relevant histories to consider on the site outlined in red.

#### **Representations**

Two (2) no. neighbour properties were identified to be notified and Press advertisement has been carried out in line with the Council's statutory duty. To date one objection has been received citing concerns over the fact the site is located within 15m of existing chicken houses that are within the objectors' sole control and the occupiers of a dwelling here would have the potential to object to a level of emissions and their established farm business could be affected with dire consequences. They raised concerns with the initial DAERA consultation response as it indicated that the site was financially linked to the overall farm which was inaccurate. I have reconsulted DAERA and advised that the dwelling to be replaced is not financially linked to the poultry units and they have subsequently amended their response.

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

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

#### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction from PPS 21, therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Drumreany road, which runs parallel with an existing concrete lane. DFI Roads have been consulted and have no concerns provided the access is paired with the existing access and shows visibility splays of 2.4m x 120m and a forward sight distance of 120m at RM stage.

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

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 lists development proposals that are considered to be acceptable forms of development in the countryside, including replacement dwellings, subject to policy criteria within CTY3 – Replacement Dwellings being met.

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

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

### CTY 3 – Replacement Dwellings

CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

The building on site is constructed in stone and some block masonry infilling. The roof is pitched, has a slate roof and chimney and is wholly intact. The building is sited gable end to the agricultural complex to the north and has a door at ground floor level, with a window at first floor level on the northern elevation. The front elevation (facing east) has a door and a window at ground floor level, with a downpipe running at an angle from the roof downwards across the entire elevation. The southern elevation has a window at ground floor level. Outside lights are evident on the eastern and northern elevations as well as lighting inside the building itself. An extension has been added to the rear of the dwelling with block walls and zinc roofing. Although the building to be replaced would appear to be utilised for agricultural purposes at this time, I consider it exhibits the essential characteristics of a dwelling house and qualifies for replacement. It is obvious the dwelling dates back a considerable period of time and exhibits some of the primary characteristics of a vernacular building. It is built without the benefit of any formal plan, drawing or written specification and the depth of the house is limited by roof construction to about 6 metres. The walls are of mass load-bearing materials, and the chimney is expressed along the ridge line. An extension is to the rear and the front of the dwelling has no projections. However, although vernacular, the dwelling does not make an overtly important contribution to the heritage, appearance or character of the locality given its distance from the public road and the lack of critical views of it. Additionally, the dwelling has been subsumed by the farm complex to the north and this limits its contribution to the character and appearance of the locality. For this reason, planning permission will be granted for a new dwelling.



Policy CTY3 then goes on to set out other criteria for consideration in all replacement cases. It states that the proposed dwelling should be sited within the established curtilage of the existing building unless either (a) the curtilage is so restricted that it could

not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.



**Fig 1. Dwelling shown in yellow with no private amenity space**

The proposed dwelling will have to be sited outside the curtilage of the existing, extending into the walled area to the south as the curtilage of the existing building is extremely restrictive given the fact it is surrounded by agricultural buildings. This move will have demonstrable amenity benefits as the new dwelling will be further away from the agricultural buildings.

Given the very restrictive nature of the site the applicant was offered the option of an off-site replacement as the dwelling to be replaced is essentially located within an active poultry unit. Crucially, the applicant does not own the buildings which are located the closest to the dwelling to be replaced and an objection to the proposal was received by the owner of these buildings. The agent was asked to look at alternative sites to try and address these issues. An alternative site was identified at the roadside, as the applicant would not be happy with a dwelling further back on their lands as there would be considerable expense providing an access. Discussion took place around the suggested alternative and the agent was advised that there are merits in the site, provided the roadside boundary is retained as this is critical. Any flooding issues will also have to be addressed. A new application would be required however we will hold this application until other is decided. The applicant has subsequently decided that they did not want to peruse the alternative site on the lower (potentially flood plain) part of the field and wants the site on the higher ground – away from any potential flood issues.

**CTY13 – Integration and Design of Buildings in the Countryside and CTY14 – Rural**

## **Character**

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application in which the exact design and siting details have not been submitted I am content that an appropriately designed dwelling would not appear as a prominent feature in the landscape. A comprehensive landscaping plan should be submitted as part of the reserved matters application detailing what planting is to be proposed to aid integration of the dwelling on site as there is no vegetation cover on the site boundaries outlined in red.

In terms of policy CTY 14, planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated, an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that the proposed dwelling would not result in a suburban style build-up of development when viewed with existing and approved buildings. From all of this I am satisfied that the application is able to comply with CTY 14 of PPS21.

## **Other Material Considerations**

### **Consultation with Environmental Health Department**

EHD were consulted given the site's proximity to poultry and pig units, and they have stated that the applicant should be aware that the proposed is located in close proximity to existing free range poultry sheds. The Environmental Health section recommend that a separation distance of at least 75 metres is maintained between the poultry houses and third-party residential land use to protect residential amenity from potential impact of odour, noise and pests.

### **Consultation with NIEA Industrial Pollution & Radiochemical Inspectorate**

The Inspectorate regulates an intensive poultry installation, located approximately 40 metres to the north of the site of the proposed development. In the opinion of the Inspectorate this is not a suitable location for a dwelling. Even if the operators of the above installation comply with the conditions of their PPC(IE) permit and employ "Best Available Technique" (BAT) the occupants of the proposed dwelling are likely to experience an impact from emissions (e.g., odour, ammonia, dust) from the poultry farm. The occupants of the proposed dwelling are likely to suffer loss of amenity, due to the relatively close proximity to the farm. In the opinion of the Inspectorate this is not a suitable location for a dwelling.

Both Environmental Health and NIEA have concerns with the dwelling siting in close proximity to the existing poultry installation. However, alternative siting to alleviate these concerns have been offered to the applicant who has decided not to take this offer. The applicant and his professional advisors are fully aware of the potential effect to residential amenity and have made the decision to keep the siting as initially submitted.

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of

Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns.

In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal.

Although the occupants of a dwelling here may experience a loss of residential amenity as identified by EHD and NIEA, the dwelling on site is eligible for replacement and meets the policy requirements of CTY 3 of PPS21 and as this is the case, I must recommend approval.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

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

##### **Condition 2**

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

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

##### **Condition 3**

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 120.0m and a forward sight distance of 120.0m shall

be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter. This plan shall show the access to be constructed and other requirements in accordance with the RS1 form uploaded to the planning portal.

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

#### Condition 4

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

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

#### Condition 5

The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on the approved plan 01 date received 02 Sept 2022 is demolished, all rubble and foundations have been removed and the site restored in accordance with the details on the approved plans.

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

#### Condition 6

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

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

**Signature(s):** Deirdre Laverty

**Date:** 23 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	2 September 2022
<b>Date First Advertised</b>	15 September 2022
<b>Date Last Advertised</b>	15 September 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 12 Foygh Road DUNGANNON BT70 3PH The Owner / Occupier 81 Drumeany Road Dungannon	
<b>Date of Last Neighbour Notification</b>	10 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1980/0270 Proposals: REBUILDING OF BUNGALOW AFTER DESTRUCTION BY FIRE Decision: PG Decision Date:</p> <p>Ref: M/1974/0144 Proposals: RECONDITIONING OF AND EXTENSIONS TO COTTAGE Decision: PG Decision Date:</p> <p>Ref: LA09/2022/1336/O Proposals: Replacement Dwelling and Garage Decision: Decision Date:</p> <p>Ref: M/1988/0094 Proposals: BUNGALOW (RETIREMENT DWELLING) Decision: PG Decision Date:</p> <p>Ref: M/1987/0525 Proposals: RETIREMENT DWELLING</p>	

Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-No objection, subject to conditions.FORM RS1  
STANDARD.docRoads outline.docx  
Environmental Health Mid Ulster Council-LA09.2022.1336.0 Foygh Rd 2023.doc  
NIEA-PRT LA09-2022-1336-O.PDF  
Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-  
NIEA-PRT LA09-2022-1336-O.PDF  
Environmental Health Mid Ulster Council-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

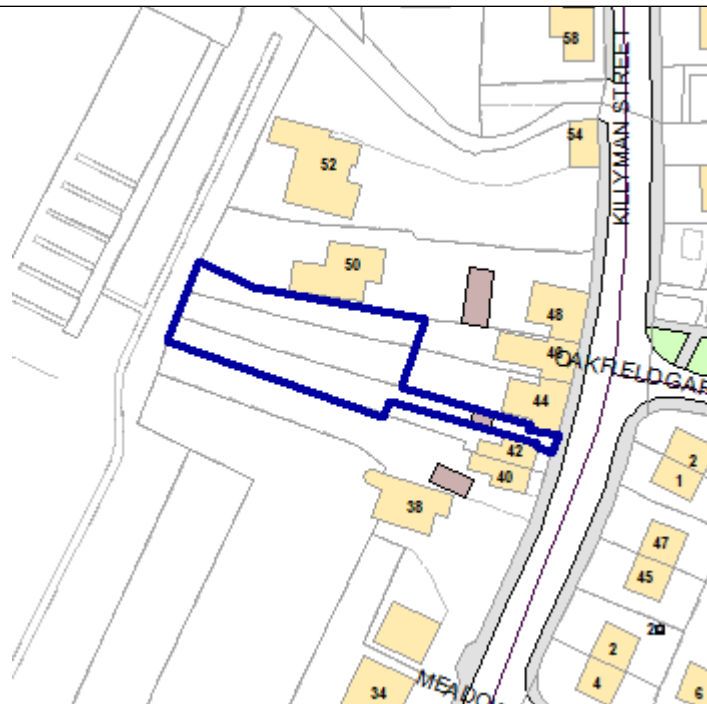


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2022/1370/O	<b>Target Date:</b> 23 December 2022
<b>Proposal:</b> Dwelling	<b>Location:</b> Lands To The Rear Of 42,44 And 46 Killyman Street Moy Adjacent To And Immediately South Of 50 Killyman Street
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Dermot MacNeice 12 The Square Moy Bt71 7SG	<b>Agent Name and Address:</b> McKeown And Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b>  Proposal is for a dwelling to the rear gardens of 3 existing dwellings on Killyman Street Moy.  4No. objections received and the main issues were loss of light, privacy, overlooking and loss of character to the area. The applicant has submitted an indicative layout showing the position of the dwelling on site; and a section and elevation through the site. The proposed dwelling is shown to be single storey and will be sited further to the rear boundary to reduce the potential for loss of light to neighbouring windows.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Geological Survey NI (DfE)	3232 MUDC Planning. Killyman Street, Moy Adjacent To And Immediately South Of 50 Killyman Street.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation response.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-1370-O.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Full approval.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Amendments requested.Roads Consultation recon - response.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Historic Environment Division (HED)	

Statutory Consultee	Historic Environment Division (HED)	
<b>Representations:</b>		
Letters of Support		0
Letters Non Committal		0
Letters of Objection		4
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The site is within the settlement limits of Moy as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is residential in character and is predominantly a mix of single dwellings on larger plots, terraced and semi-detached dwellings. The site is accessed via a laneway between 42 and 44 Killyman Street. The application site comprises of land to the rear gardens of No.42, 44 and 46 Killyman Street. The land rises up from the back patio areas of these dwellings via steps where the land levels off at the site. There is established hedging along the rear and southern boundaries of the site.</p>		
<b>Description of Proposal</b>		
<p>This is an outline application for a dwelling at Lands To The Rear Of 42,44 And 46 Killyman Street, Moy, Adjacent To And Immediately South Of 50 Killyman Street.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<b><u>Policy Consideration</u></b>		
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p>		
<b>Representations</b>		
<p>Press advertisement and neighbour notification have been carried out in line with the</p>		

Council's statutory duty. At the time of writing, 4no. third party objections were received.

An objection letter was received on the 24<sup>th</sup> November 2022 from the owner/occupier of No.40 Killyman Street. No name was supplied with the objection letter. No.40 abuts the southern boundary of the application site. The following issues have been raised in the objection letter.

1. The proposed application does not show the location of any proposed dwelling.
2. The application does not indicate the proposed eaves height of any proposed dwelling.
3. The application does not show the orientation of any proposed dwelling.
4. If approved, the new proposed dwelling will result in loss of our private amenity space due to close proximity to our property. No topological survey has been provided.
5. A concept plan needs to be provided to demonstrate how levels and issues such as daylight and privacy are being dealt with.
6. The proposed access is unfit for purpose of servicing additional vehicles due to visibility splays.
7. There is a mature hedge along our boundary which is approximately 1m thick and home to a vast array of wildlife and provides screening.
8. This proposal seeks to use the gardens of No.42,44 and 46 which means these gardens will no longer enjoy private amenity space.

An objection letter was received on 23<sup>rd</sup> November 2022 from Noel and May Cuddy who lives at No.50 Killyman Street. No.50 abuts the northern boundary of the application site. The following issues have been raised in the objection letter.

The occupiers of No.50 do state at the start of the letter they have no particular objection to the application as such but have concerns. They are concerned about the close proximity of their kitchen and utility room windows bordering on the garden of No.46.

Also, the objectors state the proposed dwelling would closely impact on their privacy and overshadow their dwelling they have lived in for 35 years.

May and Noel Cuddy submitted an objection by email on the 21<sup>st</sup> November 2022 raising similar issues but also raising the issue about water and they have concerns about the impact of the proposal on existing properties.

An email was sent on the 30<sup>th</sup> November 2022 by Ladine Watt who lives at No.1 Oakfield Gardens which is directly across the road from the dwellings at No.42,44 and 46. The main issues raised are:

1. Unacceptable siting resulting in unsympathetic addition that is at odds with the existing built environment.
2. The houses and residents have been there for many years and the land and housing is well matured.
3. The proposal does not preserve the character and appearance of the area.

4. The site is unsightly and impacts on views of the residents and invades privacy.
5. The construction and demolition of the dwelling would cause issues with parking and traffic congestion.

The following issues will be considered in the assessment of planning policy.

### **Planning History**

No planning history at the application site.

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

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

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

The site is within the settlement limit of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010 so SETT 1 is the relevant policy which applies. The site is not within any other zonings or designations within the Plan.

The proposal is for a dwelling in a site which comprises of the rear garden area of dwellings at No. 42, 44 and 46 Killyman Street. I am content to acceptable the principle of a dwelling in this location as there is already a dwelling in the rear garden of No.48 to the north, so the principle has already been established in the area. In discussions with the applicant, it was accepted that a single storey dwelling would be most acceptable in this location. A concept plan has been submitted which shows the dwelling situated at roughly the same building line as No.50 which will protect No.50's amenity from overshadowing and loss of light. I am content the proposal is sensitive to the size, character and function of the settlement limit of Moy. The site is not within Moy conservation area or within the curtilage of a listed building, but it is within the statutory 200m buffer zone of archaeological site and monument TYR062:013 – artillery fort. In their consultation response Historic Environment Division had concerns the proposal had the potential to find archaeological artefacts in the construction but this has been remedied by the conditioning of archaeological mitigation. I am content the dwelling can be accessed via an access which will not negatively impact on road safety and there is sufficient space for the parking and turning of at least two cars. There are no issues with sewage as the applicant has proposed to use a package treatment plant. Overall, I am content the proposal complies with all the criteria in SETT 1.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take

account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

## **Planning Policy Statement 7 – Quality Residential Environments**

### **Policy QD 1 – Quality in New Residential Development**

The site is a portion of land which encompasses about 2/3 of the rear garden spaces of No.42, 44 and 46 Killyman Street Moy. The land rises from the rear patio area at these properties to the location of the proposed dwelling where it levels off and the site itself has a relatively flat topography. As this is an outline application no design for the dwelling has been submitted but the applicant has shown a proposed sitting for the dwelling. In terms of the principle of a dwelling in this location, a dwelling in a rear garden has been approved at No. 50 which abuts the northern boundary of the site, so I have no concerns with the principle of a dwelling in this location. The dwellings along the roadside are a mix of modest single storey and two-storey semi-detached dwellings. The dwelling to the rear at No.50 is a one and half storey dwelling so I consider a single storey dwelling would be acceptable at this location and not be out of character for the area.

The site is within the statutory 200m buffer zone of archaeological sites and monuments TYR062:013 and TYR062:15. The site is also in close proximity to HB13 08 001 St James Church, The Diamond Moy Dungannon County Tyrone (Grade A), and HB13 08 024 The Rectory 37 The Square Moy Dungannon County Tyrone (Grade A). In terms of the archaeological sites and monument HED have requested an archaeological elevation including a metal detection survey as the site is close to a 17<sup>th</sup> century artillery fort and the village of Moy itself is a historically significant village. It has been agreed with HED an archaeological evaluation can be submitted at the Reserved Matters Stage.

In terms of the listed buildings, HED are content with the proposal submitted subject to conditions. HED request the dwelling has a low ridge height and the finished floor level shall not exceed that of the adjacent property at No.50. The dwelling should be aligned with No.50 and any native hedging and along the shared boundary with the church should be retained. As this is an outline application these could be conditioned as part of any approval.

In terms of public open space, this is not a requirement due to the size of the proposal. In terms of private open space, the applicant has shown a rear garden of approximately 20m depth from the rear wall of the proposed dwelling to the rear boundary of the site. I consider this is acceptable as it is at least 10m as stated in ‘Creating Places’ design guidance. The site is using a portion of the existing garden space of the dwellings at No.42,44 and 46 but the rear gardens of No.44 and No.46 will still have a depth of 21m which I consider is acceptable. No.42 will still have a garden space of 40sqm which is within the parameters stated in the Creating Places guidance.

The application site is on the edge but within the village of Moy and there is a footpath from the entrance to the main shops and services within Moy. I am content there is adequate access to walk and cycle from the site.



As this is an outline application the parking and turning not been shown. This material consideration will be considered at a Reserved Matters Stage, but sufficient space would need to be provided for the parking and turning of at least 2 cars within the curtilage of the site.

Again, the design of the dwelling would be considered at the Reserved Matters Stage, but I think it is appropriate to condition a low ridge height on the dwelling. This would be in accordance with the recommendations of HED and also to protect the amenity of neighbouring dwellings.

#### Impact on No. 50 to the north

The owner/occupier of No.50 has submitted an objection to the proposal on the grounds of neighbouring amenity and an assessment of this is considered below.

In terms of neighbour amenity, the siting of windows will be considered at the Reserved Matters Stage with the design of the dwelling. In terms of overlooking in No.50's property, as shown in figures 1 and 2 below there is a kitchen and utility room window on the side wall of No.50 facing directly onto the site. There is currently no fence in place between the boundary of No.50 and the site but under permitted development rights the owner/occupier of the application site can put up a 2m fence, but I consider new fencing or hedging along the boundary can be conditioned to protect No.50's amenity. No. 50 is at a lower ground level than the application site by approximately 1m. The applicant has shown on the block plan new hedging planted along the boundary. The gable wall of No. 50 is about 1.5m from the boundary with the site.

In terms of overshadowing and loss of light, I believe the proposal has the potential to block light to the side windows of No.50. The width of the site is 18.7m and the width of No. 50 site is 16.7m. I consider a modest sized dwelling feasible on the application site. In a block plan the applicant has shown the siting of the proposed dwelling at the same building line as No. 50. I consider this will mitigate against any potential overshadowing and the afternoon path of the sun will not overshadow No. 50's rear amenity space. But in terms of the kitchen and utility room on the gable wall of No.50 I consider there will be some overshadowing to these windows as the south facing sun will hit these windows in the afternoon. In the concept plan the applicant has shown the proposed dwelling pushed further west to reduce the impact of overshadowing to these windows on No.50.



Figure 1 – View of the site facing onto No. 50's dwelling



Figure 2 – View of No. 50 and the boundary of the site  
Impact on No.44 and No.46

In terms of overlooking, the application site is at a higher ground level than the rear

gardens of No.44 and No.46. There is a separation distance of 23m from the proposed siting of the dwelling to the rear walls of No.44 and No.46 which I consider is a sufficient separation not to create unacceptable overshadowing and loss of light to these properties. The applicant has also proposed new hedging along the boundary which will assist in protecting their amenity.



Figure 3 – View from the site facing towards the rear amenity space of No.44 and No.46

#### Impact on No.40

The garden area of No.40 abuts the southern boundary of the application site. The owner/occupier of No. 40 has submitted an objection to the proposal on the grounds of neighbouring amenity and an assessment of this is considered below. There is currently established hedging along the boundary and the applicant has shown on the block plan to retain this boundary treatment.

In terms of looking into the amenity space of No. 40 the positioning of windows will be considered at the Reserved Matters Stage. I consider it is appropriate to condition a low ridge height on the dwelling to mitigate against potential overlooking.

In terms of overshadowing and loss of light, the early morning sun in the north would hit the rear amenity space of No.40 which I consider is acceptable as it is not the main part of the day. Also, I consider there is sufficient separation distance between the siting of the dwelling and the dwelling and immediate rear amenity space of No.40.

#### Impact on No.1 Oakfield Gardens

No.01 is across the road from the front elevation of the site so I am content the proposal will not have an unacceptable impact on the occupants of No.01 by way of overshadowing, loss of light or overlooking. There is sufficient separation distance between No.1 and the site to not have a detrimental impact on their amenity.

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

### **Policy LC 1 – Protecting Local Character, Environmental Quality and Residential Amenity**

LC 1 is relevant in this application as the proposal is for the location of a dwelling in the rear gardens of three existing dwellings. The applicant has submitted a concept plan to demonstrate an indicative layout of the dwelling on the site. In the indicative layout the applicant has shown the footprint of a dwelling which is similar in size to other dwellings, and it is stated the dwelling will be single storey. I consider the plot size and rear amenity space does not the pattern of settlement within the area as No.50 to the north as a similar sized garden area. Annex A in the policy states a single-storey three-bedroom house should have a floorspace of at least 75m<sup>2</sup> and the footprint shown on the concept plan shows 130sqm. Overall, I consider the proposal meets all the criteria in LC1.

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

#### **Policy BH2 - The Protection of Archaeological Remains of Local Importance and their Settings, BH3 - Archaeological Assessment and Evaluation and BH 4 - Archaeological Mitigation**

The application site is located close to the site of a 17th century artillery fort (TYR 062: 015) so Historic Environment Division were consulted as the statutory authority on archaeological monuments. In their initial consultation response HED responded stating they had concerns about the proposal and there was the potential to discover archaeological remains during construction. In discussions with HED it was agreed that the programme of archaeological remains could be conditioned to be discharged by the Council at a later stage before construction of the proposed dwelling is started.

#### **Policy BH 11 - Development affecting the Setting of a Listed Building**

To the north and adjacent to the rear boundary of the application site are the following listed buildings - Grade A St James Church Moy and Grade B1 The Rectory Moy, so Historic Environment Division were consulted as the statutory authority. In their initial consultation response HED stated they had concerns about the proposal and its impact on the setting of the listed buildings. Subsequently a photomontage was submitted to show an outline of the proposed dwelling in the context of the listed buildings. This was submitted and, on the 6th September 2023, stated in their response they were now content with the proposal subject to conditions about ridge height, form and materials used. As this is an outline application the design of the dwelling will be considered at the reserved matters stage. Overall, I am content that the proposed dwelling will not have an unacceptable impact on the adjacent listed buildings.

### **Planning Policy Statement 3 – Access, Movement and Parking** **Policy AMP 2 – Access to Public Roads**

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

The proposed dwelling will be accessed via an existing laneway which is in the middle of

a row of dwellings. DFI roads are content with the proposal subject to visibility sprays of 2.0m x 33m in both directions.

### **Other Considerations**

I am content there are no other NED, HED or flooding issues at the application site.

Geological Survey confirmed in their consultation response on the 9<sup>th</sup> November 2022 that the application site is not within any abandoned mine workings.

NI Water were consulted as the site is within the settlement limit of Moy and initially recommended the proposal for refusal as there is not sufficient capacity at the Waste Water Treatment Works. Subsequently the applicant has shown a package treatment plan on the block plan. I am content the sewage system has been shown at least 7m from neighbouring boundaries so there is no need to consult Environmental Health.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

Application for the approval of 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 the approval of the last of the reserved matters to be approved.

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

#### **Condition 2**

Approval of the details of the design and external appearance of the buildings, the landscaping of the site (herein thereafter called the "Reserved Matters", shall be obtained from Mid Ulster Council in writing before any development is commenced.

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

#### **Condition 3**

The vehicular access including visibility splays of 2.0m x 33m both directions and any

forward sight distance shall be provided in accordance with drawing No. 02 Rev 1 date received 12 JUNE 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 4

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

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

#### Condition 5

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

#### Condition 6

No development shall take place until a plan indicating existing and proposed floor levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

#### Condition 7

The dwelling shall have a traditional hipped or pitched roof form.

Reason: To ensure the detailed design respects the listed buildings in terms of massing.

#### Condition 8

The ridge height of the dwelling shall be 38.750, as shown on drawing no. 03 date received 30 AUG 2023.

Reason: To ensure the detailed design respects the listed buildings in terms height and scale.

#### Condition 9

The dwelling shall have a slate finish with a slim leading-edge profile.

Reason: To ensure the works proposed make use of sympathetic building materials and techniques which respect those found on the building.

#### Condition10

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved at the Reserved Matters Stage. No trees of hedgerows which may be damaged or die within a period of 5 years from the date of the planting shall be replaced by plants of similar species and size at the time of their removal.

Reason: In the interests of visual amenity.

#### Condition11

The mature trees and hedging to the shared boundary with the church shall be retained in perpetuity, as indicated on drawing 02 Rev 1 date received 12 JUNE 2023 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To ensure the proposed development respects the character of the setting of the building.

#### Condition12

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

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

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

#### Condition13

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 12.

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

#### Condition14

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District

Council.

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

**Signature(s):** Gillian Beattie

**Date:** 12 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	9 September 2022
<b>Date First Advertised</b>	22 September 2022
<b>Date Last Advertised</b>	22 September 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 46 Killyman Street Moy Tyrone BT71 7SJ The Owner / Occupier 44 Killyman Street Moy Tyrone BT71 7SJ The Owner / Occupier 40 Killyman Street Moy Tyrone BT71 7SJ The Owner / Occupier 50 Killyman Street Moy Tyrone BT71 7SJ The Owner / Occupier 1 Oakfield Gardens Moy BT71 7NT The Owner / Occupier 42 Killyman Street Moy Tyrone BT71 7SJ</p>	
<b>Date of Last Neighbour Notification</b>	15 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2017/0503/F Proposals: Erection of two storey side extension to dwelling to allow car port on ground floor and two additional bedrooms above Decision: PG Decision Date: 09-JUN-17</p> <p>Ref: M/1975/0325 Proposals: EXTENSION TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/2008/0046/F Proposals: Renovation to existing dwelling.</p>	

Decision: PG  
Decision Date: 17-APR-08

Ref: M/1985/0439  
Proposals: DETACHED DWELLING  
Decision: PG  
Decision Date:

Ref: LA09/2022/1370/O  
Proposals: Dwelling  
Decision:  
Decision Date:

Ref: LA09/2018/1123/F  
Proposals: Attic conversion and erection of extension to rear of dwelling to provide additional bedrooms.  
Decision: PG  
Decision Date: 25-SEP-18

Ref: M/1989/0492  
Proposals: Relocation of existing shop into garage and provision of first floor stores.  
Decision: PG  
Decision Date:

Ref: M/1989/0152  
Proposals: Provision of Storage Area above Garage  
Decision: PG  
Decision Date:

Ref: M/1980/0611  
Proposals: BATHROOM AND KITCHEN EXTENSION  
Decision: PG  
Decision Date:

Ref: M/2002/0570/F  
Proposals: Extension to rear of Dwelling  
Decision: PG  
Decision Date: 09-JUL-02

Ref: M/1999/0008  
Proposals: Demolition of Derelict Dwelling and Erection of New Dwelling  
Decision: PG  
Decision Date:

Ref: M/2002/0741/RM

Proposals: Demolition of existing derelict dwelling and erection of new dwelling

Decision: PG

Decision Date: 27-AUG-02

Ref: M/1998/0507

Proposals: Site for Replacement Dwelling

Decision: WITHDR

Decision Date:

### **Summary of Consultee Responses**

Historic Environment Division (HED)-

Geological Survey NI (DfE)-3232 MUDC Planning. Killyman Street, Moy Adjacent To And Immediately South Of 50 Killyman Street.doc

DFI Roads - Enniskillen Office-Roads Consultation response.docx

NI Water - Single Units West-LA09-2022-1370-O.pdf

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

DFI Roads - Enniskillen Office-Amendments requested.Roads Consultation recon - response.docx

Historic Environment Division (HED)-

Historic Environment Division (HED)-

Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: JA/101/A0

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

Not Applicable

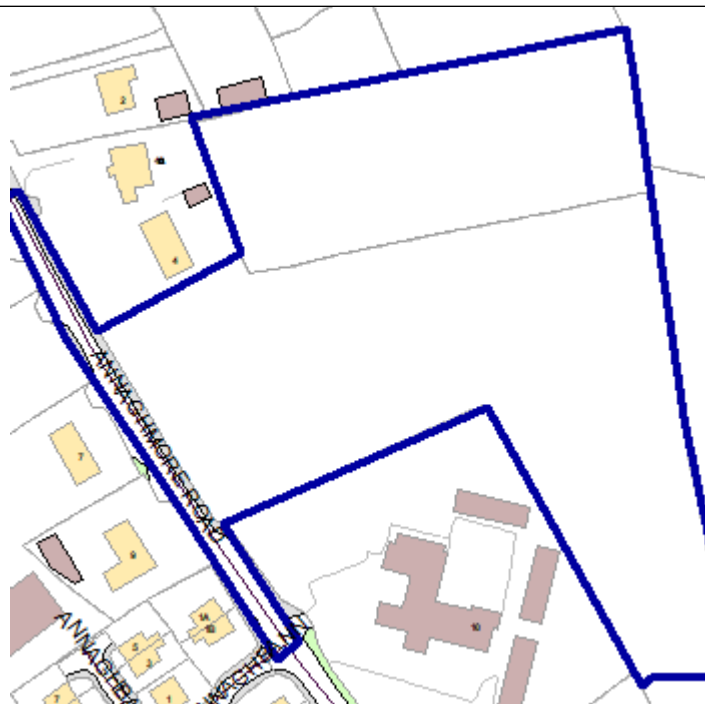


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2022/1670/F	<b>Target Date:</b> 28 June 2023
<b>Proposal:</b> Residential development comprising of 44no units; 8no detached and 36no of semi-detached dwelling units. with associated landscaping / open space; waste water pumping station; parking; and roads and access onto Annaghmore Road and associated works	<b>Location:</b> Lands immediately North Of St Patrick's Primary School 10 Annaghmore Road Coalisland
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr DECLAN McCLOSKEY 11 MOUNTJOY ROAD DUNGANNON BT71 5DQ	<b>Agent Name and Address:</b> Mr EAMONN MOORE 10 KNOCKMOYLE COOKSTOWN BT80 8XS
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation.docx DC Checklist.doc
Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-23-1670.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation PSD.docx
Statutory Consultee	NIEA	PRT LA09-2022-1670-F.PDF
Statutory Consultee	Rivers Agency	Substantive reply - 10/01/2023933216 - FINAL REPLY.pdf
Statutory Consultee	NI Water - Strategic Applications	Consulted in error. Resend to Multi units West.
Statutory Consultee	NI Water - Multiple Units West	LA09-2022-1670-F.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<b>Characteristics of the Site and Area</b>	
<p>The site is located at Lands immediately North Of St Patrick's Primary School , 10 Annaghmore Road , Coalisland.</p> <p>The site extends to approximately 2.4ha is vacant undeveloped land and is currently in agricultural use. It comprises vacant open ground, including a grassed field and benefits from some mature trees and hedging, but the boundaries defining the south and southwest contiguous with the school and road are sparsely vegetated.</p> <p>The site benefits from a considerable frontage along Annaghmore Road, which provides a direct access into the site. There is currently an agricultural gate into the site. The site topography is generally flat, falling slightly to the east/ southeast</p> <p>The site is surrounded by a mixture of land uses, reflective its central location within this small settlement;</p> <p>To the north – a cluster of detached single dwellings, which comprises mainly recent construction</p> <p>To the north west- a row of detached dwellings that create a strong road frontage along the Annaghmore Road</p> <p>To the to the north and west, beyond the housing- an area of industrial development.</p> <p>To the south and south west- St Patrick's Primary School, set within school grounds comprising open space, hardstanding, parking areas, the main school building and ancillary mobile classrooms with hardstand circulation areas.</p> <p>To the west- On the opposite side of Annaghmore Road, there is a medium to higher density housing, comprising Annahgbawn, which promotes a development density of over 25dph.</p> <p>To the east- open countryside, with a watercourse beyond.</p> <p>A school to the south, countryside to the east and some industrial developments further west.</p> <p>The surrounding residential character comprises a relatively dense pattern of development reflective of this small settlement, comprising a mix of design styles and finishes. These range between single storey and two storey properties.</p>	
<b>Description of Proposal</b>	

Residential development comprising of 44no units; 8no detached and 36no of semi-detached dwelling units. with associated landscaping / open space; waste water pumping station; parking; and roads and access onto Annaghmore Road and associated works

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

### **Policy Consideration**

**The relevant policy considerations include Dungannon and South Tyrone Area Plan 2010, RDS 2035, SPPS, PPS2, PPS3, PPS4, PPS7, PPS8, PPS12, PPS15, Creating Places.**

#### **PPS7 - Quality Residential Environments**

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

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

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

Proposal initially was for 49 units and concerns had been raised in relation to density and lack of open space in particular in relation to the Area Plan for this area, which states ' residential development (in Annaghmore) in excess of 15 units will not normally be permitted'

Following lengthy discussions and negotiations the proposal was reduced to 44 units. Although the number proposed is significantly higher than what is stated in the Area Plan 2010, we must take into account that this is outdated somewhat and also the comparable approvals since that have been approved nearby.

The dwellings along the front of the site along Annaghmore Road, remain in the same building line with dropped heights and one dwelling was removed from the original proposal . The site has been divided into Zones to highlight the overall concept of the development and its relationship to existing development.

Zone A consists of 4 units and reads like an extension the existing roadside dwellings along Annaghmore Road.

Zone B is reflective of the adjacent housing development in terms of size, scale and density.

Zone C connects well with the dwellings to the North and integrates with them.

Zone D takes account of the relationship with the school and its ground, respecting its form and layout and common boundary landscaping is adequate.

The scale and density of the proposal is in keeping with the scale and character of the surrounding area of Annaghmore. The proposed scheme has a density of 7.6 units per acre. The agent was able to provide examples which were verified as comparable examples;

Moorlands - 9.73 units per acre

Annaghbann (opposite St Patricks PS)- 11.82 units per acre

Gortmyre - 12.2 units per acre

Annaghmore Meadows - 11.19 per acre

Moor Park - 9.55 per acre.

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

The proposal has taken into account the townscape and landscape characters. The layout would not adversely affect the character of the area.

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

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

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

The main greenspace provided is mainly along the common boundary with St Patricks PS with various pockets throughout the site. There is a strong existing common boundary with is shown will be augmented. This will aid it's integration on this part of the site and reduce the visual impact for the school and any dwellings located here.

Private open space has been sufficiently provided for in line with Creating Places. Total site area is 23,867m<sup>2</sup> and open space is 3947m<sup>2</sup> so % of Public amenity spaces 16.4%, houses per care ratio 7.6units pa.

(d) Adequate provision has been made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development.

(e) A movement pattern has been 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.

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

Following amended plans, DFI Roads mention in relation to the internal layout, if there is



a need for the number of communal layby parking shown as they are in proximity to a limited number of dwellings and if they could be removed or reduced to a few parallel spaces to facilitate visitor parking.

The agent replied that while they would ordinarily be content to comply, that part of our design rationale for this came from the pre-application consultation with the adjoining Primary School. They had engaged with these neighbours at length during the PAN process during which they had raised concerns about the removal of the current ad hoc parking that currently occurs along the grass verge across the front of our clients site. In the interests of good neighbourliness, the applicant agreed to offer additional layby parking within the application site and a pedestrian linkage to facilitate overflow parking for the school. Therefore they consider it is best to retain the surplus car parking for this reason. DFI Roads were consulted with this rationale and have no objections subject to conditions provided.

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

There is a mix of semi and detached dwellings with varying heights. Finishes include dashed render and black pvc which are acceptable in this area. The variety of dwellings integrate well with the existing dwellings in the area in terms of design, materials and finishes.

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

There is a strong common boundary between the adjacent Primary School and the nearest dwellings and overlooking to the playground area is minimal. There are no issues with overlooking or overshadowing with existing dwellings to the north or east of the site.

EH had indicated that foul sewage from this proposal will be disposed of through the public sewer. NI Water have indicated that connection to the public sewerage system in this area is recommended to be curtailed. If an alternative form of waste disposal, such as a sewage package treatment plant, is to be used it is imperative this does not result in adverse environmental conditions at the closest existing/proposed dwellings.

The Environmental Health Department would recommend that the developer demonstrates (e.g. by way of manufacturer's data including type of plant, capacity, etc.) the appropriate separation distance to be applied between sewage treatment plant and the closest residential property to ensure that nuisance conditions will not arise. Where a separation distance is not provided by the manufacturer an odour impact assessment/noise impact assessment should be carried out to assess the distance required. If connection to the public sewerage system is approved, then Environmental Health will have no further comment to make.

A pre-commencement condition can be added to any approval to ensure this issue is dealt with.

DFI Rivers have considered the proposal from a drainage and flood risk aspect and have made no objections to the proposal in line with PPS15.

(i) The development has been designed to deter crime and promote personal safety.

The requirements of QD1 of PPS7 have been satisfactorily complied with.

### **Local Dev Plan 2023 Draft Plan Strategy**

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

### **Representations**

One objection has been received from a neighbouring property who has children attending St. Patricks PS. They are concerned about additional traffic and congestion to an already busy area and the safety of the children, due to more vehicles from the new dwellings. They also mention loss of parking, inadequate access and inadequate parking provisions. It is mentioned data from DFI shows increases in accidents close to schools over recent years.

Other issues raised were over development, close to adjoining properties and strain on existing community facilities.

In relation to the traffic and parking issues, DFI were consulted and re-consulted, the details of this are outlined in the body of the report. St. Patricks P.S. were an integral part of the pre-community consultation process and have been notified as part the planning process and have provided no objection to the proposal.

The density of the site has been assessed and it is felt its character remains in keeping the existing surrounding development, as detailed under the assessment of PPS7. There is sufficient separation between proposed and existing dwellings and adequate screening shown to provide screening and avoid any loss of privacy.

In terms of facilities, all relevant consultees, including NI Water, were consulted and appropriate conditions will be attached to any approval.

The revised layout and all other relevant information has been fully considered and an approval is being recommended with conditions.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

The works hereby permitted shall be begun not later than the expiration of 5 years beginning with the date on which this consent is granted.

Reason: As required by Section 94 of the Planning Act (Northern Ireland) 2011

**Condition 2**

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

The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 22-073-DR-101 rev B (with DfI Roads PSD stamp date 06 October 2023)

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

**Condition 3**

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

No other development hereby permitted shall be commenced] until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 22-073-DR-101 rev B (with DfI Roads PSD stamp date 06 October 2023). The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreements under Article 3 (4C) and Article 32.

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

#### Condition 4

The visibility splays of 4.5 metres by 70 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing 22-073-DR-101 rev B (with DfI Roads PSD stamp date 06 October 2023) prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 5

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

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

#### Condition 6

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

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

#### Condition 7

None of the residential units hereby approved shall be occupied until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

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

#### Condition 8

The existing natural screenings along existing boundaries of this site, shall be retained,

augmented where necessary and let grow to a mature height unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works. Any proposed planting should be carried out in accordance with that shown on the same site plan 02/01 dated 11 October 2023.

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

**Condition 9**

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

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

**Signature(s):** Emma McCullagh

**Date:** 20 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	30 November 2022
<b>Date First Advertised</b>	15 December 2022
<b>Date Last Advertised</b>	15 December 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  2B Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  95 Gortgonis Road Coalisland Tyrone BT71 4QQ  The Owner / Occupier  107 Gortgonis Road Coalisland Tyrone BT71 4QQ  The Owner / Occupier  1 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  1A Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  1B Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  2 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  2A Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  3 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  4 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  5 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  6 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  7 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  8 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  9 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  10 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  11 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier  12 Annaghbann Coalisland Tyrone BT71 4RY  The Owner / Occupier</p>	

13 Annaghbann Coalisland Tyrone BT71 4RY  
The Owner / Occupier

117 Washingbay Road Coalisland Tyrone BT71 4QE  
The Owner / Occupier

119 Washingbay Road Coalisland Tyrone BT71 4QE  
The Owner / Occupier

121 Washingbay Road Coalisland Tyrone BT71 4QE  
The Owner / Occupier

121A Washingbay Road Coalisland Tyrone BT71 4QE  
The Owner / Occupier

123 Washingbay Road Coalisland Tyrone BT71 4QE  
The Owner / Occupier

125 Washingbay Road Coalisland Tyrone BT71 4QE  
The Owner / Occupier

1 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

2 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

3 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

3A Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

4 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

5 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

5 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

6 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

7 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

8 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

9 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

10 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

10A Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

11 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

12 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

13 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

14 Annaghmore Road Coalisland Tyrone BT71 4QZ  
The Owner / Occupier

15 Annaghmore Road Coalisland Tyrone BT71 4QZ The Owner / Occupier 16 Annaghmore Road Coalisland Tyrone BT71 4QZ The Owner / Occupier St Patricks PS 10 Annaghmore Road Coalisland Tyrone BT71 4QZ	
<b>Date of Last Neighbour Notification</b>	11 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Roads Consultation.docxDC Checklist.doc Environmental Health Mid Ulster Council-Planning Response LA09-23-1670.pdf DFI Roads - Enniskillen Office-Roads Consultation 2.docx Environmental Health Mid Ulster Council- DFI Roads - Enniskillen Office-Roads Consultation PSD.docx NIEA-PRT LA09-2022-1670-F.PDF Rivers Agency-Substantive reply - 10/01/2023933216 - FINAL REPLY.pdf NI Water - Strategic Applications-Consulted in error. Resend to Multi units West. NI Water - Multiple Units West-LA09-2022-1670-F.pdf	



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Landscape Proposals Plan Ref: 03  
Proposed Elevations Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Proposed Elevations Plan Ref: 06  
Proposed Elevations Plan Ref: 07  
Proposed Elevations Plan Ref: 08  
Proposed Floor Plans Plan Ref: 09  
Proposed Floor Plans Plan Ref: 10  
Proposed Floor Plans Plan Ref: 11  
Proposed Floor Plans Plan Ref: 12  
Proposed Floor Plans Plan Ref: 13  
Proposed Elevations Plan Ref: 14  
Longitudinal Sections Plan Ref: 15  
Mining Waste Management Plan Plan Ref: 16  
Detailed Drawing Plans Plan Ref: 17  
Detailed Drawing Plans Plan Ref: 18  
Mining Waste Management Plan Plan Ref: 19  
Proposed Plans Plan Ref: 20

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2023/0163/O	<b>Target Date:</b> 31 May 2023
<b>Proposal:</b> Outline planning permission for proposed replacement dwelling with retention of the existing dwelling for agricultural storage	<b>Location:</b> 50M South of 5 Beaghbeg Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Benny McAleer 24 Drum Road Cookstown BT80 8JG	<b>Agent Name and Address:</b> MOR Architects Ltd 11 Dunamore Road Cookstown BT80 9NR
<b>Executive Summary:</b> <p>This application is being presented to the planning committee with the recommendation of approval as an exception to policy. The application is for a replacement dwelling in which there is no issue with meeting this policy. However, the mapping system and DfI Rivers identified an undesignated watercourse. The proposed dwelling is to be sited within this area with the applicant stating that this undesignated watercourse is to be culverted which would result in the proposal being contrary to FLD 4 of PPS 15. It should be noted by members that the undesignated watercourse appears to be a field ditch, rather than a stream or a river. Outline permission was granted on site for the same proposal under LA09/2019/1128/O however, the time for submitting the Reserved Matters application has passed.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	Shared Environmental Services	LA09-2023-0163-O - AA complete 03.08.23.pdf
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	PRT LA09-2023-0163-O.PDF
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	Rivers Agency	426673 - Final Response.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

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

Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located south of 5 Beaghbeg Road, Cookstown in County Tyrone. This is a rural location and the site lies outside any settlement limits as defined within the Cookstown Area Plan 2010. The site forms part of a field with proposed access onto the Keerin Road, which is a minor road. The area surrounding the site exhibits a relatively undulating nature and can be described as a rural area with elements of discernible variation in elevation. This is quite an open area of the countryside however there is little in terms of expansive views spanning across the wider landscape.</p> <p><b>Representations</b></p> <p>No third party representations have been received.</p>	
<p><b>Description of Proposal</b></p> <p>This is an outline planning application for a proposed replacement dwelling with retention of the existing dwelling for agricultural storage.</p> <p><b>Site History</b></p> <p>LA09/2019/1128/O- Outline planning permission for proposed replacement dwelling with the retention of the existing dwelling for agricultural storage. South Of 5 Beaghbeg Road, Cookstown BT80 9PE. Permission Granted.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>Cookstown Area Plan 2015 Strategic Planning Policy Statement (SPPS) PPS 21 - Sustainable Development in the Countryside</p> <p>The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes replacement dwellings. Section 6.77 states that "proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety".</p>	

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

CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy. Policy states that if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example ancillary accommodation or a store, to form an integrated building group.

I am content from a site visit that the building to be replaced is a dwelling. Although the dwelling is not being used for residential purposes rather it appears to be being used as a storage building.

The policy further states that replacement dwellings will only be permitted where all the following criteria are met:

*- The proposed replacement dwelling should be sited within the established curtilage of the existing building.*

The proposal is for an off site replacement, with the proposed site located approximately 65m south west of the existing dwelling. Policy allows for an off-site replacement if the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. As was acceptable when assessing LA09/2019/1128/O I am content the off-site replacement is acceptable.

*- The overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.*

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

As this is an outline planning application, no detailed design details have been submitted. Given the rural nature of the existing dwelling and the lack of public views to the site, I am content a ridge height restriction of 6m would ensure the dwelling would not have a significantly greater visual impact than the existing building.

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

I am content that the necessary services can be provided and will not have an adverse impact on the environment or character of the locality.

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

Dfl Roads were consulted as the proposal includes a new access. They responded with no objection.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore, no design details has been submitted however, I am of the opinion that an appropriately designed dwelling with a ridge height of no more than 6m above finished floor level will not appear prominent in the landscape. I am content that a dwelling at this location does not rely solely on new planting for integration, although additional planting would benefit the integration of the dwelling. I am content ancillary works will integrate with their surroundings and an appropriately designed dwelling would blend with the landform and other natural features.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed building will not appear prominent in the landscape.

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

Policy FLD 4 states that the planning authority will only permit the artificial modification of a watercourse, including culverting or canalisation operations, in either of the following exceptional circumstances:

- *Where the culverting of short length of a watercourse is necessary to provide access to a development site or part thereof;*
- *Where it can be demonstrated that a specific length of watercourse needs to be culverted for engineering reasons and that there are no reasonable or practicable alternative courses of action.*

It is noted that part of the undesignated watercourse will be culverted to provide access to the development. However, no further justification has been provided to show compliance with FLD 4. The agent has stated that the undesignated watercourse could be described as an open sheugh and that there are many months of the year that it is dry. While it is acknowledged that at the time of the site visit in February 2023 (image below) there was a small portion of the watercourse closest to the roadside boundary that contained water, and did not appear as a flowing watercourse.



The agent has also provided a site layout showing the existing watercourse being diverted away from the development. In this instance I do not believe the watercourse to be a free-flowing watercourse, rather it appears to be a field ditch and as there are no concerns regarding flooding in the area, I am recommending this application is approved as an exception to FLD 4. It should also be noted that planning approval was granted on the same site for the same development under LA09/2019/1128/O in which the issue of the watercourse was never identified and approval was granted. Although that application has passed the period for a Reserved Matters application it is still considered a live approval as the 5-year timeframe has not passed.

### **Other Material Considerations**

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

### **Summary of Recommendation:**

Approve is recommended

Approval Conditions

#### Condition 1

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

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

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

#### Condition 2

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

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

#### Condition 3

Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

#### Condition 4

A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the commencement of the development.

Reason: In the interests of visual amenity.

#### Condition 5

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 attached form RS1.

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

#### Condition 6

The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level.

Reason: To ensure that the dwelling is not a prominent feature in the landscape.



Condition 7

The existing building coloured green on the approved 1:1000 scale site location plan, shall no longer be used or adapted for the purpose of human habitation and may only be used for non-residential use.

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

**Signature(s):** Ciaran Devlin

**Date:** 20 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	15 February 2023
<b>Date First Advertised</b>	28 February 2023
<b>Date Last Advertised</b>	28 February 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 9 Keerin Road Cookstown Tyrone BT80 9PD The Owner / Occupier 5 Beaghbeg Road Cookstown Tyrone BT80 9PE	
<b>Date of Last Neighbour Notification</b>	17 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2003/0974/O  Proposals: Proposed dwelling and garage  Decision:  Decision Date:</p> <p>Ref: LA09/2020/1350/DC  Proposals: Discharge of condition No.2 of Planning approval LA09/2017/1717/F  Decision: AL  Decision Date: 12-FEB-21</p> <p>Ref: LA09/2017/1717/F  Proposals: Proposed dwelling on a farm and garage  Decision: PG  Decision Date: 06-MAR-20</p> <p>Ref: I/2013/0233/O  Proposals: Dwelling and garage  Decision: PG  Decision Date: 02-APR-14</p> <p>Ref: LA09/2019/1128/O  Proposals: Outline planning permission for proposed replacement dwelling with the</p>	

retention of the existing dwelling for agricultural storage.

Decision: PG

Decision Date: 17-OCT-19

Ref: LA09/2016/1024/F

Proposals: Proposed 11kv Overhead line to facilitate wind turbine at 28 Keerin Road

Decision: PG

Decision Date: 07-OCT-16

Ref: LA09/2023/0163/O

Proposals: Outline planning permission for proposed replacement dwelling with retention of the existing dwelling for agricultural storage

Decision:

Decision Date:

Ref: I/2010/0529/Q

Proposals: Proposed dwelling

Decision: 211

Decision Date:

Ref: I/1976/0291

Proposals: FARMWORKER'S BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2015/0054/F

Proposals: Proposed change of house type to recently approved application I/2014/0198/F for dwelling and garage

Decision: PG

Decision Date: 07-JUL-15

Ref: I/2005/1053/O

Proposals: Proposed dwelling & domestic garage

Decision:

Decision Date:

Ref: I/2014/0198/F

Proposals: Dwelling and garage on a farm and proposed new access

Decision: PG

Decision Date: 27-JAN-15

Ref: I/2009/0437/O

Proposals: Proposed Dwelling & Garage

Decision: PR

Decision Date: 29-SEP-10

Ref: I/2006/0125/O  
Proposals: Proposed dwelling & domestic garage  
Decision: PR  
Decision Date: 31-JAN-07

Ref: I/2004/1378/O  
Proposals: Site for dwelling  
Decision:  
Decision Date:

### **Summary of Consultee Responses**

Shared Environmental Services-  
Shared Environmental Services-LA09-2023-0163-O - AA complete 03.08.23.pdf  
Shared Environmental Services-  
NIEA-PRT LA09-2023-0163-O.PDF  
Shared Environmental Services-  
Rivers Agency-426673 - Final Response.pdf  
DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docRoads  
outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2023/0369/F	<b>Target Date:</b> 13 July 2023
<b>Proposal:</b> Amendment of access location and visibility splay requirement	<b>Location:</b> Adjacent to 4 Whitebridge Rd Ballygawley
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Eamon Cassidy 1 Church Street Ballygawley BT70 2HA	<b>Agent Name and Address:</b> Mr John Aidan KELLY 50 Tullycullion Road DUNGANNON BT70 3LY
<b>Executive Summary:</b>  Application is being presented to Council as one no. objection has been received citing road safety concerns.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Recon response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full.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

One no. objection has been received citing road safety concerns

### Characteristics of the Site and Area



The application site is located adjacent to No. 4 Whitebridge Road within the development limits of Ballygawley as identified in the Dungannon and South Tyrone Area Plan 2010. At present on site is an almost completed industrial building. The site is defined by mature trees and hedging to the northern boundary with palisade fencing to the southern and eastern (roadside) boundaries.

The area is defined mostly by housing but there is a variety of mixed uses in the area, including ground floor businesses to the south such as a hair dressers and public house, and St. Marys Primary School to the east. Ballygawley Main Street lies to the south. Further to the north you leave Ballygawley and enter the open countryside.

### **Description of Proposal**

Amendment of access location and visibility splay requirement

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

#### **Policy Consideration**

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

### **Planning History**

Ref: LA09/2018/0641/F

Proposals: Light industrial (Class B2) building including foul water treatment plant

Decision: PG

Decision Date: 04-OCT-18

Ref: LA09/2021/0198/CA

Breach Type: OP\_A

Officer: 200094

This application has been received in an attempt to regulate an alleged breach of planning control at the site, namely an unauthorised access. MUDC currently have an ongoing enforcement case in relation to this matter.

### **Representations**

Twenty six (26) no. neighbour notifications have been identified to carry out as well as Press advertisement in line with the Council's statutory duty. The neighbour notification process was carried forward from the original application for this site LA09/2018/0641/F. I am satisfied all relevant neighbours have been notified. To date one objection has been received citing concerns over safety as it will directly affect the access into their laneway, further cluttering a busy road and visibility with this proposed entrance. There are also concerns over the safety of children walking to and from the primary school next door.

Roads Service were consulted with the objection letter received as it relates primarily to road safety grounds. They subsequently re-visited the site and looked at the amended plans submitted in relation to their previous comments, and now offer no objection to the proposal on the condition that it is constructed and maintained to that detailed on plan 02 rev. 01 dated June 2023 which shows visibility splays of 2.4m x 45m to the South and 2.4m x 60m to the North.

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being located within the development limits of Ballygawley which gives favourable consideration to proposals, subject to criteria outlined within the plan policy. The site lies just outwith the Area of Townscape Character to the south of the site and there are no other specific designations or zonings. Policy SETT 1 is relevant.

Plan Policy SETT 1 – Settlement Limits states that favourable consideration will be given



to development proposals within settlement limits including zoned sites provided the following criteria are met:

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

As the proposal is for an amended access to an approved Light industrial (Class B2) building and Roads Service have no objections to the proposal I consider it meets all the criteria within SETT1.

### **Local Development Plan 2030 - Draft Plan Strategy**

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The key consideration here is whether the new access point and visibility splays will be acceptable when assessed against the provisions of PPS 3 Access, Movement and Parking and DCAN 15 Vehicular Access Standards.

### **Movement and Parking**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves an

amendment to the access location and visibility splay requirement onto the Whitebridge Road from what was previously approved under LA09/2018/0641/F.

DFI Roads were consulted on this application and initially advised that the proposed access position is satisfactory if blue land/control of 60m sight visibility line can be achieved and hedge removal to accommodate sight line to the North. Amended plans were subsequently received which showed control of the land required to achieve these visibility splays. They now offer no objection to the proposal on the condition that it is constructed and maintained to that detailed on plan 02 rev. 01 dated June 2023 which shows visibility splays of 2.4m x 45m to the South and 2.4m x 60m to the North.

As stated the proposal involves the relocation of the access and all other works on site have been carried out as approved under LA09/2018/0641/F. It is not considered the proposal would adversely impact on neighbouring amenity. There are no overlooking or overshadowing concerns and I do feel that the proposal will lead to any loss of amenity due to an unacceptable increase in noise and disturbance. Given the fact this is an amended access proposal and there are no material changes to the building, there are no natural or built heritage features which could be affected by the proposal, and the site is not located in an area of flood risk.

### **Other Material Considerations**

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

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map I have no flooding concerns. In addition, I have no ecological or residential amenity concerns. The concerns raised by the objector have been considered by DFI Roads Service and they are content the proposal will not have any safety implications provided the visibility splays are provided in accordance with the submitted plans. I am content these can be conditioned on any planning permission and therefore I recommend approval.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

Condition 1

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

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

**Condition 2**

The vehicular access(es) including visibility splays of 2.4m x 45m to the South and 2.4m x 60m to the North and any forward sight distance shall be provided in accordance with Drawing No. 02 Rev 01 date received 07 June 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

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

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

**Condition 4**

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

Reason: To ensure waiting vehicles do not encroach onto the carriageway.

**Signature(s):** Deirdre Laverty

**Date:** 11 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	30 March 2023
<b>Date First Advertised</b>	10 April 2023
<b>Date Last Advertised</b>	10 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 7 Whitebridge Road Ballygawley BT70 2JH</p> <p>The Owner / Occupier 4B , Whitebridge Road, Ballygawley, Tyrone, BT70 2JH,</p> <p>The Owner / Occupier 4 Whitebridge Road, Ballygawley, Tyrone, BT70 2JH,</p> <p>The Owner / Occupier Flat 4A , Whitebridge Road, Ballygawley, Tyrone, BT70 2JH,</p> <p>The Owner / Occupier Flat 4D, Whitebridge Road, Ballygawley, Tyrone, BT70 2JH,</p> <p>The Owner / Occupier Flat 4B, Whitebridge Road, Ballygawley, Tyrone, BT70 2JH,</p> <p>The Owner / Occupier Flat 4C, Whitebridge Road, Ballygawley, Tyrone, BT70 2JH,</p> <p>The Owner / Occupier 7 Castle Hill Park Ballygawley Tyrone BT70 2LN</p> <p>The Owner / Occupier 9 Castle Hill Park Ballygawley Tyrone BT70 2LN</p> <p>The Owner / Occupier 5 Whitebridge Road Ballygawley Tyrone BT70 2JH</p> <p>The Owner / Occupier St Mary's Primary School 1 Whitebridge Road Ballygawley Tyrone BT70 2JH</p> <p>The Owner / Occupier 11A Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier 11B Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier 9 Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier 7 Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier 5 Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier 1 Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier 3 Church Street Ballygawley Tyrone BT70 2HA</p> <p>The Owner / Occupier</p>	

1 Castle Hill Park Ballygawley Tyrone BT70 2LN  
The Owner / Occupier

8 Castle Hill Park Ballygawley Tyrone BT70 2LN  
The Owner / Occupier

10 Castle Hill Park Ballygawley Tyrone BT70 2LN  
The Owner / Occupier

12 Castle Hill Park Ballygawley Tyrone BT70 2LN  
The Owner / Occupier

13 Castle Hill Park Ballygawley Tyrone BT70 2LN  
The Owner / Occupier

14 Castle Hill Park Ballygawley Tyrone BT70 2LN  
The Owner / Occupier

Ballygawley Veterinary Centre 11 Church Street Ballygawley Tyrone BT70 2HA  
The Owner / Occupier

3 Whitebridge Road Ballygawley Tyrone BT70 2JH

<b>Date of Last Neighbour Notification</b>	12 September 2023
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<b>Date of EIA Determination</b>	
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<b>ES Requested</b>	<events screen>
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**Planning History**

Ref: M/1997/0825

Proposals: Change of use from Shop with Living Accommodation to Ground Floor Veterinary Surgery, First Floor Offices and Second Floor Flat with Extension

Decision: PG

Decision Date:

Ref: M/1994/0371

Proposals: Erection of 6 no temporary mobile homes and storage containers and 1 no laundry facility

Decision: PG

Decision Date:

Ref: M/2001/0464/F

Proposals: Demolition of existing stores/garage and erection of new garage and store ancillary to undertakers business.

Decision: PG

Decision Date: 30-AUG-01

Ref: M/2002/1436/A41

Proposals: Undergrounding of Overhead Utility Cables, Footpath & Entry Resurfacing,

Street Furniture Locations, Disabled Access to Selected Premises

Decision: 205

Decision Date: 20-MAR-03

Ref: LA09/2015/0913/F

Proposals: Change of Use of First Storage Area to 2 Bedroom Flat including External Amenity Space

Decision: PG

Decision Date: 11-DEC-15

Ref: LA09/2023/0369/F

Proposals: Amendment of access location and visibility splay requirement

Decision:

Decision Date:

Ref: M/2010/0440/F

Proposals: Conversion of 2 first floor stores into 4 no. flats

Decision: PG

Decision Date: 01-SEP-10

Ref: M/2006/1387/F

Proposals: Replacement of existing buildings with ground floor shop units and first floor stores.

Decision: PG

Decision Date: 18-OCT-06

Ref: LA09/2015/0485/F

Proposals: Conversion of Part Shop Unit to 1 no Flat

Decision: PG

Decision Date: 25-NOV-15

Ref: M/2000/0479/O

Proposals: Housing Development

Decision: PG

Decision Date: 02-NOV-00

Ref: LA09/2018/0641/F

Proposals: Light industrial (Class B2) building including foul water treatment plant

Decision: PG

Decision Date: 04-OCT-18

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc

DFI Roads - Enniskillen Office-Roads Consultation - Recon response.docx

DFI Roads - Enniskillen Office-Roads Consultation full.docx

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2023/0397/O	<b>Target Date:</b> 19 July 2023
<b>Proposal:</b> Proposed site for a dwelling and domestic garage approx 35m North of No. 2 Motalee Lane, Desertmartin, BT45 5JN	<b>Location:</b> Approx 35M North of No. 2 Motalee Lane Desertmartin
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Michael Gribbin 4 Draperstown Road Desertmartin BT45 5NB	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>  The proposal satisfies the cluster criteria under Policy CTY 2a, though given the previous planning refusal at the site for the same cluster development (ref. LA09/2015/1277/O), it is appropriate that this case be brought before the planning committee. The proposed is brought to the planning committee with a recommendation for approval.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside approximately 1 mile north west and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015. The proposed site is currently a portion of an agricultural field which is sandwiched between the Luney Road (adjacent and west of site) and Motalee Lane (adjacent and east of site). The site has three boundaries - the western and eastern boundaries are defined by 2

metre hedgerow and the southern boundary is defined by a 2 metre fence. The northern boundary is undefined and extends into a larger field area. The site is square and relatively flat, with a slight rise to the north. Neighbours include no. 2 Motalee Lane adjacent and south, and nos. 18a and 18b Luney Road adjacent and west. The surrounding environment consists of dwellings and agricultural fields and NW of the site is Meadowvale equestrian centre.

### **Description of Proposal**

This is an outline application for a proposed site for a dwelling and domestic garage. The proposal falls under Policy CTY 2a - New Dwellings in Existing Clusters.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

LA09/2015/1277/O – Proposed dwelling and garage – 40m N.W. of 2 Motalee Lane Magherafelt with access from Luney Road – Permission Refused 13/04/2016

#### **Representations**

To date no third party representations have been received.

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

The site is located in the rural countryside approximately 1 mile north west and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

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

This site is not located within or adjacent to any listed buildings / structures.

The site is not subject to any issues pertaining to flooding.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

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

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

### PPS 21 – Sustainable Development in the Countryside

PPS 21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a provides that planning permission will be granted for a dwelling at an existing cluster of development subject to the following criteria:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;

In this case the proposal site lies outside of a farm and there are more than the required 4 buildings.

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

It is my opinion that the development in this locality creates a cluster which appears as a visual entity in the local landscape.

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

Consideration is given to the LA09/2015/1277/O application for the same proposal on the same site, albeit encompassing the entirety of the field and not just the southern half

as in this case. This application was refused on the grounds that the Meadowvale Equestrian Centre did not amount to a valid focal point, since it was not considered a community facility, but rather an operating business. The refusal was never challenged.

The Meadowvale Equestrian Centre is a sizable facility complete with a number of large house sheds, show jumping grounds fenced horse arenas. While a degree of the centre is well screened from the road, a large portion of the centre is still visible from the road and signage at the entrance of the facility give the place a sense of presence within the local vicinity.

Over the past several years the Council has demonstrated its willingness to interpret the focal point criteria of CTY 2a more liberally, taking into account shops and businesses. In respecting this approach, and having considered that the current proposal is on a much smaller site than the previous application and thus in keeping with the nature of surrounding development, I am content on this basis that Meadowvale Equestrian Centre amounts to what is considered a valid focal point.

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

The site is bounded on both the southern and western boundary with other development in the cluster. The site provides an adequate degree of enclosure for the dwelling.

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

I am content that the development of the site can be absorbed into the existing cluster through rounding off. The degree of screening provided by the roadside hedgerow on both sides of the site will assist in absorbing the dwelling.

- Development would not adversely impact on residential amenity.

I have no reason at this outline stage to suspect that the development of a suitably designed dwelling at this site would adversely impact on residential amenity.

Having assessed the proposal against Policy CTY 2a, I am content that all the criteria are adequately satisfied.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in with its immediate and wider surroundings if it were of a size and scale appropriate for the site and its locality. The cluster is complete with a mixture of single and two storey dwellings. In consideration of the site and its current levels of screening it is recommended that a ridge height condition of 6.5 metres from finished floor levels be applied if approval is granted. The roadside hedging of the site is 2 metres in height and provide a degree of screening,

together with a few scatterings of trees dotted around the perimeter of the site. It is therefore considered that the site would not rely entirely on the use of new landscaping for integration. A condition will be applied to retain all trees and hedging (except where removal is required for access and splays) to ensure any dwelling at reserved matters stage integrates if approval is granted. The proposed complies with CTY 13 at this outline stage.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. I find no reason why a dwelling could not be designed and sited to integrate successfully into this site. The proposed complies with CTY 14 at this outline stage.

### PPS 3 –Access, Movement and Parking

The proposed access arrangements involve the construction of a new access to the public road. A consultation with DfI Roads provided a response with no objection to the proposed, subject to the standard RS1 condition. The proposed complies with PPS 3 at this outline stage.

### Recommendation

Having assessed the proposal against the relevant planning policy and all other material considerations, it is recommended that planning permission be granted.

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

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

#### Condition 2

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

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

#### Condition 3

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

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

#### Condition 4

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

#### Condition 5

The dwelling hereby permitted shall have a ridge height of not greater than 6.5 metres from finished floor levels, designed and landscaped in accordance with the Department of Environments Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

#### Condition 6

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

Reason: To ensure the dwelling integrates into the countryside and to ensure the maintenance of screening of the site.

#### Condition 7

The existing natural screening of the site (to include the hedging along the western and eastern boundaries of the site) shall be retained (except where removal is required for access and splays), or unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and

agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality

**Signature(s):** Benjamin Porter

**Date:** 9 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 April 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  6 Motalee Lane Desertmartin Londonderry BT45 5JT  The Owner / Occupier  18B Luney Road Desertmartin Londonderry BT45 5JN  The Owner / Occupier  18A Luney Road Desertmartin Londonderry BT45 5JN  The Owner / Occupier  18 Luney Road Desertmartin Londonderry BT45 5JN  The Owner / Occupier  2 Motalee Lane Desertmartin Londonderry BT45 5JT</p>	
<b>Date of Last Neighbour Notification</b>	22 May 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2021/0679/O  Proposals: Proposed site for dwelling and domestic garage Under policy CTY8 infill/gap site  Decision: PG  Decision Date: 17-AUG-21</p> <p>Ref: H/1983/0036  Proposals: REPLACEMENT STABLES AND STORE  Decision: PG  Decision Date:</p> <p>Ref: H/2005/0622/O  Proposals: Site Of Dwelling &amp; Garage  Decision: PR  Decision Date: 15-SEP-06</p>	



Ref: LA09/2023/0339/RM

Proposals: Proposed site for replacement dwelling & domestic garage

Decision:

Decision Date:

Ref: LA09/2023/0397/O

Proposals: Proposed site for a dwelling and domestic garage approx 35m North of No. 2 Luney Road, Desertmartin, BT45 5JN

Decision:

Decision Date:

Ref: LA09/2019/1530/F

Proposals: Proposed change of house type from previously approved dwelling and domestic garage (Ref: LA09/2017/0089/F).

Decision: PG

Decision Date: 04-FEB-20

Ref: LA09/2015/1277/O

Proposals: Proposed dwelling and garage

Decision: PR

Decision Date: 13-APR-16

Ref: H/1988/0132

Proposals: REPLACEMENT DWELLING

Decision: PG

Decision Date:

Ref: H/1975/0232

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: LA09/2023/0335/RM

Proposals: Proposed Site for Dwelling on Farm and Domestic Garage as Policy CTY10

Decision:

Decision Date:

Ref: LA09/2023/0396/O

Proposals: Proposed Site for a Dwelling and Domestic Garage

Decision:

Decision Date:

Ref: LA09/2023/0336/RM

Proposals: Proposed Infill Dwelling and Domestic Garage

Decision:

Decision Date:

Ref: H/2006/0174/RM  
Proposals: Proposed Dwelling & Garage  
Decision: PG  
Decision Date: 04-AUG-06

Ref: H/2003/1340/O  
Proposals: Site of two storey dwelling and garage.  
Decision: PG  
Decision Date: 24-FEB-05

Ref: H/2007/0347/F  
Proposals: Replacement Dwelling and Garage  
Decision: PG  
Decision Date: 15-FEB-08

Ref: H/1980/0383  
Proposals: SITE OF REPLACEMENT BUNGALOW  
Decision: PG  
Decision Date:

Ref: LA09/2021/1793/O  
Proposals: Proposed site for dwelling & domestic garage, under Policy CTY 10 Dwelling on a Farm.  
Decision: PG  
Decision Date: 25-AUG-22

Ref: LA09/2021/1792/O  
Proposals: Proposed replacement dwelling & domestic garage.  
Decision: PG  
Decision Date: 24-MAR-22

Ref: LA09/2015/0373/O  
Proposals: Infill Dwelling  
Decision: PG  
Decision Date: 19-NOV-15

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/0402/F	<b>Target Date:</b> 19 July 2023
<b>Proposal:</b> Proposed 3no. detached dwellings	<b>Location:</b> Adjacent to 7 Desertmartin Road Moneymore
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Marie and Sean Corr 7 Desertmartin Road Moneymore BT45 7RB	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b> <p>Application for three no houses within settlement limit of Moneymore, fronting onto the A29 Desertmartin Road.</p> <p>Previous outline permission on the site for 2no. chalet dwellings under LA09/2017/1511/O.</p> <p>This application is for three larger dwellings with one located in the southern portion of the site, which did not include a dwelling under the original application.</p> <p>Scheme has been assessed against all relevant policy and is found to be contrary to PPS 7 because the house in the southern portion of the site would experience overlooking and loss of privacy from no 10 Mountview Drive and also, the same impact would be experienced by no. 10 Mountview Drive, from the proposed dwelling.</p> <p>Other issues were identified to the agent and amendments were received. Agent was also advised that it was Councils view that three dwellings on this site would not be feasible. However, the agent has refused to alter the scheme from three houses.</p> <p>NI Water have also stated that capacity to WWTW is not available. Agent has been advised to liaise with NIWater to overcome this issue but they have failed to provide any</p>	

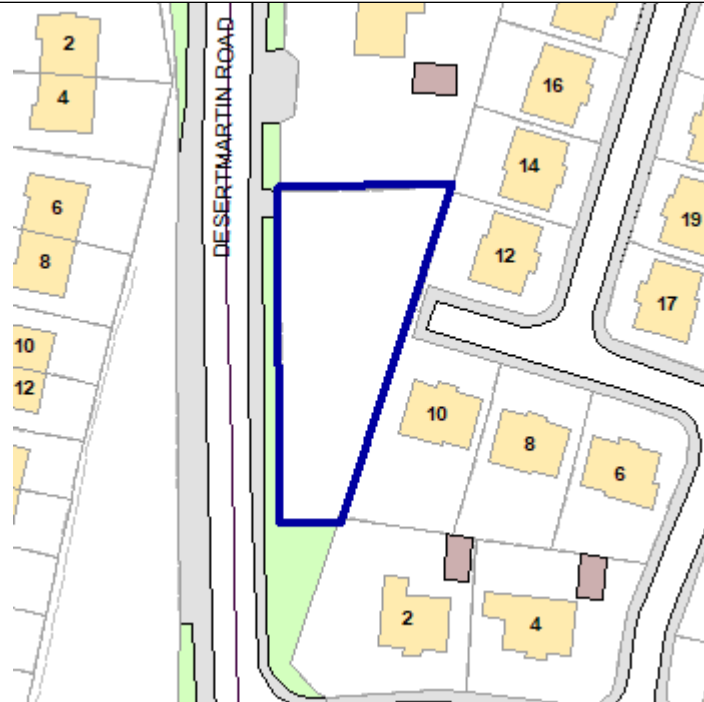
alternative sewerage treatment proposals. This is therefore contrary to the Cookstown Area Plan, the SPPS and QD 1 PPS 7

One objection received from no. 10 Mountview Drive and this has been considered in the report.

Recommendation is to refuse - contrary to PPS 7, CAP and the SPPS.

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0402 F 3 dwellings Desertmartin Road Moneymore.doc
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	NI Water - Single Units West	LA09-2023-0402-F.pdf
Statutory Consultee	NIEA	PRT LA09-2023-0402-F.PDF

### Representations:

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

### Summary of Issues

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

The site is within the settlement limit of Moneymore and consists of a triangular shaped field immediately south of no 7 Desertmartin Road.

Immediately to the east is Mountview Drive which sits above the level of the proposed site and is separated from the site by a hawthorn hedge. The roadside boundary of the site is defined by a post and wire fence. New housing development, Carndaisy Lane is located across the road to the west.

The character of the area is defined by a high degree of residential development as well as a busy main road (A29) which runs adjacent to the site and onto which the site is proposed to access.

There is an outline planning permission for a pair of semi detached dwellings in the northern part of the site under LA09/2017/1511/O.

### **Description of Proposal**

Proposed 3no. detached dwellings. The proposal is for three no. three bedroom, 2 storey units facing onto the Desertmartin Road. This has been amended from the original scheme which consisted of three different house types – 2 of which fronted onto the main road, and one of which was gable end towards the road, facing northwards.

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

#### **Policy Consideration**

The following policies are relevant;

- Cookstown Area Plan
- SPPS – Strategic Planning Policy Statement
- PPS 7 – Quality Residential Environments
- Creating Places – Achieving Quality in Residential Developments
- PPS 6 – Archaeology and the Built Heritage
- PP3 3 – Access, Movement and Parking
- PPS 2 – Natural Heritage

#### **Cookstown Area Plan (CAP)**

The site is located within the settlement limit of Moneymore as per the CAP and access

will be taken onto a protected route as identified by the CAP. Therefore, prevailing planning policies for housing in settlements and for accessing onto protected routes are relevant and must be assessed as part of this application.

Part 3 of the CAP states that Moneymore is a village wherein the capacity of the WWTW is an overriding constraint on development and that permission for new dwellings will not be granted unless a satisfactory means of sewage disposal can be effected. In relation to this application, NIWater have commented that adequate WWTW capacity is **not** available. They have stated that the public system cannot presently serve this development without significant risk of environmental harm. I have advised the applicant / agent about this and requested that they liaise directly with NIWater to see if an alternative treatment solution can be achieved. No further information has been provided by the agent despite the request being made 4 months ago and reminder issued.

### SPPS

The SPPS is largely focussed on the role of LDPs in allocating land for housing within settlements but does clearly state that role of the planning system is to promote more sustainable housing development within existing urban areas. It also states that planning system should promote sustainable patterns of housing development that lead to more compact village forms. There is therefore a very general presumption in favour of the notion of small housing developments within villages such as Moneymore providing they are sustainable and help to promote quality residential environments.

The Core Planning Principles of the SPPS state that there are a wide range of environment and amenity considerations which should be taken into account by planning authorities when managing development. One of these is the need to safeguard against adverse environmental impacts of development including sewerage, drainage, waste management and water quality. As mentioned above, this development has the potential to cause significant environmental harm by virtue of the fact that there is no WWTW capacity to cater for this development.

### PPS 7 – Quality Residential Environments

Policy QD 1 states that an overarching principle for all housing development is that in areas of existing residential development, new development will not be permitted where it would result in unacceptable damage to environmental quality, among other things.

As mentioned above, NI Water have commented that adequate WWTW capacity is **not** available and that the public system cannot presently serve this development without significant risk of environmental harm. I have advised the applicant / agent about this but they have failed to take action to address the issue and therefore, the development as proposed would be at risk of causing significant environmental harm.

QD 1 of PPS 7 also sets out that all proposals for residential housing development will



be expected to conform to all the following criteria which have been assessed in turn as laid out below;

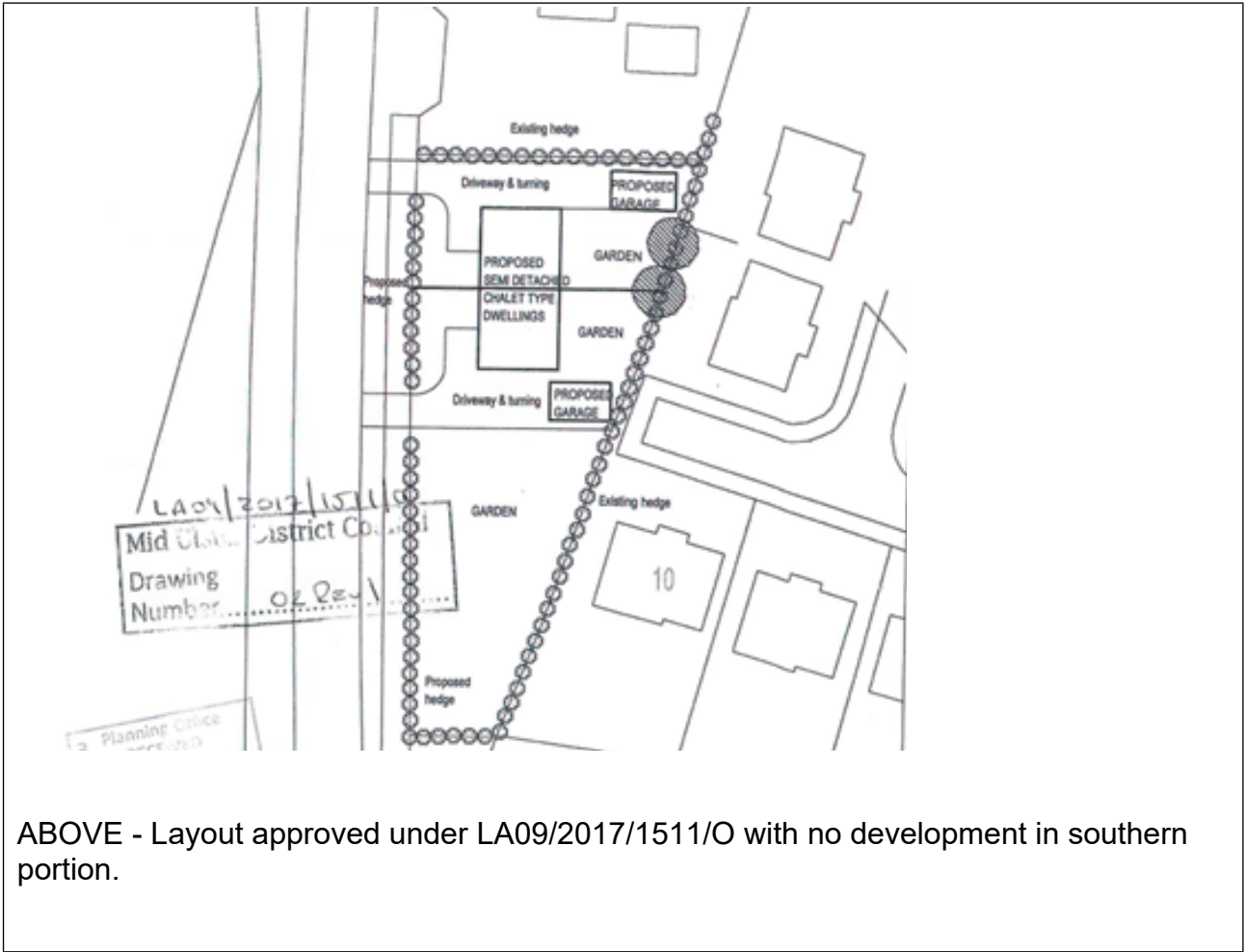
- (a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas;**

The nature development is in keeping with the character of the area which is characterised by housing developments immediately to the east and west.

Along the Desertmartin Road from the Fairhill / Spar shop towards this site is characterised by substantial, detached bungalows fronting onto the main road. The proposed 3 no. dwellings under this application, will be detached two storey dwellings and will not be in keeping with this building pattern but given the location of the aforementioned housing developments close by, the larger, detached bungalows are not typical of the immediate surroundings of this site. The immediate surroundings of the site are instead, characterised by higher density housing located at Carndaisy Lane and Mountview Drive and this is the context in which this development is considered.

Having said that, it is my view that the topography of the site is not suitable for the entirety of this development. The triangular nature of the site and the elevated nature of the land to the east means that development in the southern portion of the site is problematic. The narrow southern portion of the site means that enough space is not available to provide adequate separation distance and the elevated nature of the land to the east means that overlooking will be an issue between the proposed dwelling in the southern portion and number 10 Mountview Drive. This is discussed at more length in the relevant paragraphs below.

I note that the previous approval on the site for 2 dwellings did not include any dwellings located in this southern portion of the site. For illustration purposes, I have attached an image of the approved layout under LA09/2017/1511/O and that currently submitted.



ABOVE - Layout approved under LA09/2017/1511/O with no development in southern portion.



ABOVE - Current layout submitted with development in southern portion.

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

The Historic Environment Map Viewer shows two industrial heritage records close by and the former railway station yard is located 200m to the south. HED have therefore been consulted and have responded to say that there is limited potential for any negative impact to be had on any archaeological remains. The site is far enough removed from the old railway site to have any visual impact on the former station house building.

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

The requirement to provide public open space only applies to residential developments in excess of 25 units, as per OS 3 of PPS 8. Therefore there is no requirement for public open space to be provided as part of this development.

In relation to private amenity space, Creating Places states that *“a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater.”*

The proposed development contains 3 separate units each with their own private amenity space. According to measurements provided by the agent, which appear to be accurate following measurements carried out on the planning portal, the amount of private amenity space shown for each dwelling ranges from 137sq. metres to 188 sq. metres and this results in an average private amenity space for the development of just over 150 sq. metres each.

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

This criterion is not relevant to a development of this size and is more fitting for a large scale development whereby facilities can be incorporated to benefit the wider community as well as the inhabitants of any such development

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

The development will be linked to a public footpath which will enable residents to easily walk to the local shops and services available within Coagh Village.

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

DFI roads have been consulted and have no objections to this proposal.

The layout drawing shows all dwellings as having at least 2 parking spaces available to each dwelling which is in accordance with notional parking standards for this type of development.

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

The design, scale and form of the dwellings is in keeping with the typical house design in this kind of development and the appearance of the new dwellings is typical, in terms of design and scale to other houses already erected in the village.

However, having said that, I am aware that all three house types are exactly the same (House Type A) and all are fronting onto a main road – the A29 which is heavily trafficked. Views of the site will therefore be important and in my opinion, the current scheme of three identical houses fronting onto such a busy road will create a sterile and unattractive frontage when entering the village. Creating Places talks about the need to have visual contrasts along road frontages and in my opinion, this development does not

achieve this.

The agent has amended this scheme following feedback from the Council and whereas, the original scheme contained three different house types, the final scheme now consists of three identical house types, which in my opinion is not suitable and does not represent an innovative or considered design process rather than an attempt to fit as many houses of a certain size onto the site as possible.

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

As mentioned above, the original approval on the site was an outline approval which provided for the location of two chalet type dwellings in the northern portion of the site, with the southern portion of the site marked as a “garden” area. This current proposal involves three dwellings which are larger than chalet style dwellings (8.5m ridge height) and the third of which, is in the southern portion of the site, which was previously to be undeveloped.

In my opinion, this scheme is contrary to criterion (h) because it will have an unacceptable impact on the existing property at number 10 Mountview Drive and similarly, the existing property will have an unacceptable impact on the proposed properties.

For example, Creating Places states that where the development abuts the private garden areas of existing properties, a separation distance greater than 20m will generally be appropriate to minimise overlooking, with a minimum of around 10m between the rear of new houses and the common boundary. The document also states that this separation distance may even be enhanced for development on sloping sites, which is the case in this scenario due to the changes in levels between existing site and proposed site.

In this case, the house proposed on the southern portion of the site will abut the private garden of number 10 Mountview Drive and the separation distance between both properties will be approximately 12m with a 5m distance between the rear of the new dwelling and the common boundary. Indeed, given the layout of the site, the distance from the rear of the house to the common boundary will even be as little as 2m in the extreme southern portion of the site. In addition to this, when the elevated nature of the existing property is taken into consideration, the result is a clear unacceptable impact upon the private amenity space of the proposed property.

The limited separation distance will mean that a bedroom window and a landing window of the new dwelling, will be overlooking the rear private amenity space of no. 10 Mountview Drive. I have visited the site with another planning officer who stood on the site and held a measuring pole to the approximate height of the proposed dwelling whilst I entered the rear garden area of no. 10 Mountview Drive. This helped to replicate the level of overlooking what would be experienced by no. 10 Mountview Drive and this

clearly represents a negative impact, in addition to that which would be inflicted upon the proposed property.

The two houses proposed in the northern part of the site, abut the private rear amenity space of no. 12 Mountview Drive – especially the dwelling proposed in the most northern part of the site. However, even though the original approval insisted these dwellings were only satisfactory because of the “chalet” style design which reduced their height, I am of the view that loss of privacy and overlooking will not be an issue with these two dwellings as proposed. The separation distances between each proposed dwelling and no. 12 Mountview Drive are in excess of 20m and the distance to the common boundary is over 10m.

I am therefore of the view that two dwellings can be accommodated on this site but that the third dwelling is unacceptable when assessed against policy.

I have corresponded with the agent in relation to these concerns as well as initial concerns in relation to the original scheme which was submitted wherein I expressed the view that 3 dwellings on the site would not be feasible. While some of the original concerns have been addressed by the amended scheme, I am still of the view that the provision of three dwellings is not feasible on this site for the reasons presented above.

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

The development is located within the built form of Moneymore along a main road which is heavily trafficked and this in turn promotes excellent visibility into the site. There are no alleyways or blind spots where anti social behaviour can develop. There is also good natural surveillance from existing and proposed properties which will deter crime and / or antisocial behaviour.

Given the above consideration of PPS 7 – Policy QD 1, I am of the view that the development as proposed is contrary to PPS 7 by virtue of the fact that the development is not compatible with the adjacent land uses. The proposed dwelling to the southern portion of the site will have an unacceptable impact upon no. 10 Mountview Drive in terms of loss of privacy and overlooking and similarly, no. 10 Mountview Drive will also overlook the proposed dwelling to an extent which would cause loss of privacy.

I am also concerned that the uniform house type will create an unattractive frontage along the main A29 road and this fails to draw upon the positive aspects of the character and appearance of the surrounding area.

PPS 6 – Archaeology and the Built Heritage

The Historic Environment Map Viewer shows two industrial heritage records close by and the former railway station yard is located 200m to the south. HED have therefore been consulted and have responded to say that there is limited potential for any negative

impact to be had on any archaeological remains. The site is far enough removed from the old railway site to have any visual impact on the former station house building.

### PPS 3 – Access, Movement and Parking

Policy AMP 3 of PPS 3 states that within settlements, access will only be granted for direct access onto protected routes where it is demonstrated that access cannot be taken from an alternative adjacent minor road. In this case, there is no other access available.

The policy also states that the access will need to be designed so as to not compromise road safety or lead to a proliferation of access points. DFI Roads have been consulted and have not offered any objection.

The policy therefore complies with PPS 3.

### PPS 2 – Natural Heritage

The proposal involves the removal of hedgerows to provide visibility splays and the hedgerows in questions qualify as priority habitat hedgerows. Policy NH5 of PPS 2 states that planning permission will only be granted where it is shown that there will be no adverse impact on priority habitat. The developer has shown that the loss of hedgerows will be mitigated against by offsetting the lost hedges with new hedgerows to the roadside boundary.

NIEA have noted that this is not shown on the submitted site layout drawing which was available at the time of consultation. However drawings submitted later with amended layout does show the hedgerow being planted to offset the hedges which will be removed.

Given the unacceptable nature of the development, re consultation with NIEA has not been carried out as the development is considered unacceptable for the reasons outlined above and the provision of hedgerows in question is not capable of making the development acceptable.

The ecological information submitted by the agent shows the hedgerows to have negligible bat roosting potential (BRP) and NED have no reason to disagree with this assessment and ore of the view that the development will not pose a threat to breeding populations of bats in the local area.

### **OTHER CONSIDERATIONS**

One objection has been received from PRO Planning Consultancy on behalf of no. 10 Mountview Drive.

The objections relate to the following issues;

- Ownership of shared boundary and permission hasn't been granted for removal of hedge along this boundary.
- Separation distance / overlooking dominance
- House types not in keeping with the house types in existing nearby development

I have considered the entirety of the objection document and would comment as follows.

Ownership disputes in relation shared boundaries are civil matters between both parties and planning authority cannot determine ownership. Planning permission does not confer title and if this development were to be approved, agreement between both parties would still need to be reached and therefore, this is not an issue which can be resolved as part of this application.

In relation to issues of overlooking / loss of privacy, I agree with the arguments put forward by the objector and this has been detailed in my report.

I believe that the design of the houses is in keeping with the type of houses which are common in the area. There is no requirement for all houses in housing developments to be the same. This type of house is common in built up residential areas. I have recognised in my report that the traditional building pattern along the Desertmartin Road is one of large detached dwellings but this has been altered by newer developments further towards the edge of the settlement, where this site is located.

Having said that, as expressed in report, I am of the view that three identical houses fronting onto the main A29 road, creates an unattractive frontage and is not acceptable.

### **Summary of Recommendation:**

Refuse is recommended

Given all of the above, I recommend that the development is refused as it fails to create a quality residential environment and also poses the risk of significant environmental harm.

It is therefore contrary to policy QD 1 of PPS 7, The Cookstown Area Plan and the SPPS and should be refused for the following reasons;

**Refusal Reasons**



**Reason 1**

The proposal is contrary to policy QD 1 of PPS 7 because it fails to provide a quality residential environment for existing and proposed residents, in that it would if permitted, contribute to a loss of privacy by virtue of overlooking for both the proposed dwelling to the south of the site and also for the existing dwelling at no. 10 Mountview Drive.

**Reason 2**

The proposal is contrary to policy QD 1 of PPS 7 because it would if permitted, have potential to cause significant environmental harm because the receiving WWTW does not have capacity to serve this development and the developer has not submitted sufficient information on an alternative means of sewage disposal.

**Reason 3**

The proposal is contrary to para. 4.12 of the SPPS because it would if permitted, have potential to cause significant environmental harm because the receiving WWTW does not have capacity to serve this development and the developer has not submitted sufficient information on an alternative means of sewage disposal.

**Reason 4**

The proposal is contrary to the Cookstown Area Plan because the developer has failed to show how a satisfactory means of sewage disposal can be affected.

**Signature(s):** Colin McKeown

**Date:** 25 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 April 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  10 Mountview Drive Moneymore Londonderry BT45 7GX  The Owner / Occupier  2 Mountview Drive Moneymore Londonderry BT45 7GX  The Owner / Occupier  12 Mountview Drive Moneymore Londonderry BT45 7GX  The Owner / Occupier  14 Mountview Drive Moneymore Londonderry BT45 7GX  The Owner / Occupier  2 Carndaisy Road Moneymore Londonderry BT45 7TZ  The Owner / Occupier  4 Carndaisy Road Moneymore Londonderry BT45 7TZ</p>	
<b>Date of Last Neighbour Notification</b>	21 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1978/0101  Proposals: PETROL FILLING STATION AND KIOSK  Decision: PG  Decision Date:</p> <p>Ref: I/1981/0243  Proposals: RESIDENTIAL DEVELOPMENT  Decision: WITHDR  Decision Date:</p> <p>Ref: I/2004/0936/F  Proposals: Proposed 11no Detached Dwellings and Garages.  Decision: PG</p>	

Decision Date: 06-JUL-05

Ref: I/2013/0078/F

Proposals: Proposed 10no. detached dwelling and garages

Decision: PG

Decision Date: 18-NOV-13

Ref: I/1982/0229

Proposals: RESIDENTIAL DEVELOPMENT

Decision: PG

Decision Date:

Ref: LA09/2023/0402/F

Proposals: Proposed 3no. detached dwellings

Decision:

Decision Date:

Ref: I/2011/0285/F

Proposals: Proposed 3 no. dwellings and garages (Amended roads details)

Decision: PG

Decision Date: 24-APR-12

Ref: LA09/2017/1511/O

Proposals: Site for 2 No (1 Pair) semi-detached dwellings (Reduced Site Area and Revised Proposal)

Decision: PG

Decision Date: 09-NOV-18

Ref: I/1976/0364

Proposals: NON-SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: I/1979/0351

Proposals: ERECTION OF 1 NO DWELLING

Decision: WITHDR

Decision Date:

Ref: I/1976/036401

Proposals: REPLACEMENT BUNGALOW

Decision: PG

Decision Date:

Ref: I/1979/0334

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1978/0372

Proposals: DOMESTIC GARAGE

Decision: PG

Decision Date:

Ref: I/2003/0055/F

Proposals: 9 No. detached dwellings and garages  
(Amended Scheme) (RE-ADVERTISEMENT)

Decision: PG

Decision Date: 13-NOV-03

Ref: I/1986/0315

Proposals: DOMESTIC GARAGE AND STORE

Decision: PG

Decision Date:

Ref: I/1992/0507

Proposals: Domestic Garage

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

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

Environmental Health Mid Ulster Council-LA09 2023 0402 F 3 dwellings Desertmartin  
Road Moneymore.doc

Historic Environment Division (HED)-

NI Water - Single Units West-LA09-2023-0402-F.pdf

NIEA-PRT LA09-2023-0402-F.PDF

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Proposed Plans Plan Ref: 04

Proposed Plans Plan Ref: 05

Site Layout or Block Plan Plan Ref: 02 Rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/0411/O	<b>Target Date:</b> 19 July 2023
<b>Proposal:</b> Proposed site for a dwelling and domestic garage approx 40m North of No 19a Ballyronan Road, Toome, BT41 3SJ	<b>Location:</b> Approx 40M North of No, 19A Ballyronan Road Toome
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Matt Murphy 4 O'Neills Terrace Toome BT41 3SW	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>  The current application for a dwelling and domestic garage is presented as a refusal. CTY 1 – This proposal fails to meet Policy CTY 1 of PPS 21 as there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement. CTY 2a – This proposal fails to meet Policy CTY 2a of PPS 21 as the cluster is not associated with a focal point such as a social/community building/facility, or is located at a cross-roads.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The site is identified as approximately 40m North of No. 19A Ballyronan Road, Toome.

The proposal site is a large agricultural field, which is accessed via Ballyronan Road, between dwellings Nos. 19 and 17A Ballyronan Road. The eastern boundary is defined

by a wooden fence, while the remaining boundaries are defined by tall, mature trees. The immediate locality is characterised by residential development with the wider surroundings characterised by predominantly agricultural uses.

### **Description of Proposal**

This is an outline application for a proposed site for a dwelling and domestic garage approximately 40m North of No. 19A Ballyronan Road, Toome, BT41 3SJ.

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

#### **Policy Consideration**

##### Representations

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

##### Relevant Planning History

No relevant planning history.

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

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character



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

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

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

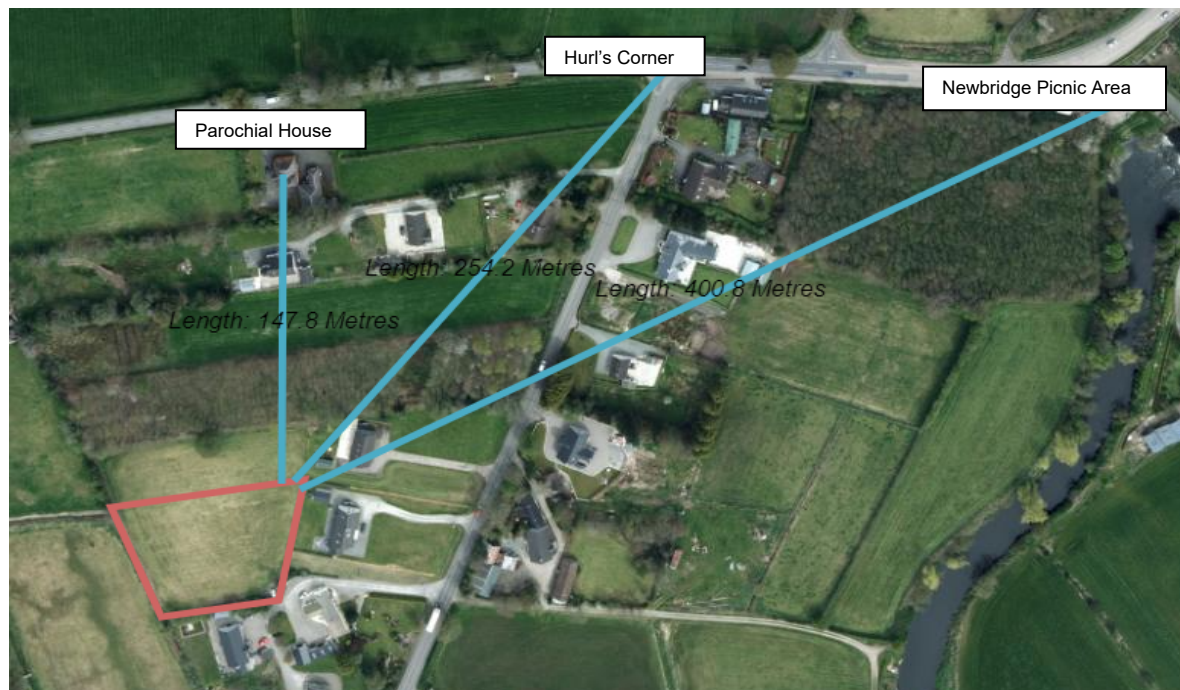
- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated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

In this case the proposal site does lie outside of a farm, and there are more than 4 buildings adjacent. It is my opinion that the cluster does appear as a visual entity in the local landscape. The proposal site does provide a suitable degree of enclosure and is bounded on at least two sides (eastern and southern boundaries) with other development in the cluster. I am content development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside, and it would not adversely impact on residential amenity.

In terms of focal point, it is my opinion that there is no focal point at this proposal site. The agent has identified three focal points: the Parochial House, Hurls Corner and Newbridge Picnic Area. However, first and foremost I believe they are too far removed to be considered as a focal point.

The Parochial House is the closest of the three focal points highlighted by the agent in terms of distance at approximately 148m from the site, however it is situated along Aughrim Road, and following my site visit I consider it is much too far removed to be considered a focal point for this cluster. Furthermore, on site, there are no signs at the dwelling that show that this is a Parochial House. Therefore, I do not believe this could be considered as a focal point.

Hurls corner is a T-junction, not a crossroads, therefore this does not meet policy, and cannot be considered as a focal point. Newbridge Picnic Area is approximately 400m from the proposal site and I consider it to be extremely far removed, and could not be considered as a focal point.



### **Other policy and material considerations**

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

DfI Roads were consulted, and their response confirmed that they had no objection,

subject to conditions. I am content that the access is acceptable under PPS 3.

I have no flooding, ecological or residential amenity concerns.

**Summary of Recommendation:**

Refuse is recommended

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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

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

**Date:** 25 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 April 2023
<b>Date First Advertised</b>	18 April 2023
<b>Date Last Advertised</b>	18 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  14 Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  16 Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  21 Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  4 Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  19 Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  17A Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  17 Ballyronan Road Toome Londonderry BT41 3SJ  The Owner / Occupier  19A Ballyronan Road Toome Londonderry BT41 3SJ</p>	
<b>Date of Last Neighbour Notification</b>	21 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2004/0961/O  Proposals: Site of dwelling and garage.  Decision: PR  Decision Date: 14-NOV-05</p> <p>Ref: LA09/2016/0256/O  Proposals: Bungalow with rooms in the roofspace and domestic garage (infill site)  Decision: PG  Decision Date: 06-JUL-16</p> <p>Ref: H/1988/0609</p>	

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: H/1988/0360

Proposals: BUNGALOW AND GARAGE

Decision: WITHDR

Decision Date:

Ref: LA09/2016/1197/RM

Proposals: 1 Bungalow with rooms in roofspace

Decision: PG

Decision Date: 20-OCT-16

Ref: H/1990/6028

Proposals: HOUSE AND GARAGE BALLYRONAN ROAD MAGHERAFELT

Decision: PRER

Decision Date: 19-JUN-90

Ref: H/1990/0353

Proposals: SITE OF HOUSE

Decision: PR

Decision Date:

Ref: H/2002/1149/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 13-NOV-03

Ref: H/2006/0932/RM

Proposals: Dwelling and Garage

Decision: PG

Decision Date: 21-FEB-07

Ref: H/2002/1150/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 09-FEB-05

Ref: LA09/2015/1144/O

Proposals: Site of proposed infill site for 2 storey dwelling and garage

Decision: PG

Decision Date: 03-FEB-16

Ref: LA09/2021/1181/O

Proposals: Site of proposed infill site for new 2 storey dwelling and garage

Decision: PG  
Decision Date: 12-OCT-21

Ref: H/2010/0374/O  
Proposals: Site of proposed infill site for new 2 storey dwelling and garage  
Decision: PG  
Decision Date: 14-OCT-10

Ref: H/1999/0165  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1989/0074  
Proposals: BUNGALOW AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1988/0257  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/2009/0451/O  
Proposals: Proposed infill site for new dwelling and garage  
Decision: PG  
Decision Date: 28-JUL-10

Ref: H/2013/0051/RM  
Proposals: Proposed dwelling and detached garage  
Decision: PG  
Decision Date: 08-MAY-13

Ref: H/1999/0680/F  
Proposals: Dwelling and garage  
Decision: PG  
Decision Date: 11-FEB-00

Ref: H/2002/0388/O  
Proposals: Site for Dwelling & Garage.  
Decision: PR  
Decision Date: 04-APR-03

Ref: H/1998/0219  
Proposals: EXTENSION TO DWELLING  
Decision: PG

Decision Date:

Ref: H/1987/0283

Proposals: ALTERATIONS & ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1999/0184

Proposals: SITE OF DWELLING AND GARAGE

Decision: WITHDR

Decision Date:

Ref: H/2004/1164/O

Proposals: Site of Dwelling and Garage.

Decision: PR

Decision Date: 19-NOV-05

Ref: H/1984/0368

Proposals: DWELLING HOUSE AND GARAGE

Decision: WITHDR

Decision Date:

Ref: H/2004/0904/O

Proposals: Site of dwelling and garage.

Decision:

Decision Date:

Ref: LA09/2017/0003/NMC

Proposals: Remove the rear return from stamped approved drawing No. 03 and No. 5 of planning approval H/2013/0091/RM

Decision: CG

Decision Date: 27-FEB-17

Ref: H/2013/0091/RM

Proposals: Dwelling and garage on a farm

Decision: PG

Decision Date: 22-JUL-13

Ref: H/2012/0198/O

Proposals: Proposed dwelling on farm

Decision: PG

Decision Date: 03-SEP-12

Ref: H/2004/0771/O

Proposals: Site of proposed dwelling house.

Decision:

Decision Date:

Ref: H/1999/0544

Proposals: DWELLING

Decision: PG

Decision Date: 13-JUN-00

Ref: H/1999/0310

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: LA09/2023/0411/O

Proposals: Proposed site for a dwelling and domestic garage approx 40m North of No 19a Ballyronan Road, Toome, BT41 3SJ

Decision:

Decision Date:

Ref: H/2013/0371/O

Proposals: Infill Dwelling

Decision: PG

Decision Date: 15-MAY-14

Ref: H/2008/0128/F

Proposals: Proposed replacement dwelling & garage

Decision: PG

Decision Date: 25-NOV-08

Ref: H/2004/0982/O

Proposals: Site of dwelling and garage

Decision: PR

Decision Date: 24-NOV-05

Ref: H/2014/0405/F

Proposals: Proposed new infill dwelling and garage

Decision: PG

Decision Date: 12-FEB-15

Ref: H/1993/6024

Proposals: SITE OF DWELLING BALLYRONAN ROAD MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/1974/0037

Proposals: IMPROVEMENTS TO HOUSE

Decision: PG



Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2023/0422/O	<b>Target Date:</b> 19 July 2023
<b>Proposal:</b> Site for a 2 storey dwelling and domestic garage on a farm	<b>Location:</b> Lands Approx 215M East of 5 Rarogan Road, Augher
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Pat McAleer 5 Rarogan Road Augher BT77 0DH	<b>Agent Name and Address:</b> Mark Hackett 21 Church Street Ballygawley Dungannon BT70 2HA
<b>Executive Summary:</b> <p>The proposal is contrary to CTY1, CTY10 and CTY13 of PPS21 as it is not sited to visually link or cluster with an established group of buildings on a farm. In addition, the proposal is contrary to SPPS Para 6.297 and AMP4 of PPS as the proposed development impacts on the land take associated with the planned route of the A5 Western Corridor dual carriageway project and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response LA09-23-0422.pdf
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0422-O.docx
Statutory Consultee	DFI Roads - Enniskillen Office	10-05-2023.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	

### Representations:

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

### Summary of Issues

The proposal is not sited to visually link or cluster with an established group of buildings on a farm. In addition, the proposed development impacts on the land take associated

with the planned route of the A5 Western Corridor dual carriageway project.

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



The site is a 0.75ha parcel of land located within the rural area approximately 3.3km north-east of Augher with access onto the Newtownsaville Road and is outwith any settlement limits as set down in the Dungannon and South Tyrone Area Plan 2010. The site is elevated from the public road and lies approximately 170m from it, with 2 no. agricultural fields between it and the road. The site is roughly square shaped and rises from south to north. The southern and western boundaries are defined by mature hedgerows, with the northern and eastern boundaries undefined as they are cut out of the larger agricultural field. The access to the site runs along the existing field boundaries to the south-west of the site.

There is little recent development pressure in the area, with existing development taking the form of mostly farm dwellings with associated outhouses. The farm with which the site is associated lies approximately 200m to the west. An operational wind turbine is located approximately 295m to the north-east.

### **Description of Proposal**

Outline application for proposed dwelling on a Farm

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

#### **Policy Consideration**

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

considerations indicate otherwise.

### **Relevant Histories**

There are no relevant histories to consider on the site.

### **Representations**

Two (2) properties were notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of representation have been received.

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

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

### **Mid Ulster District Council Draft Plan Strategy 2030**

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

Para 6.297 of the SPPS further states that the regional strategic objectives for transportation and land-use planning are to:

- promote sustainable patterns of development which reduce the need for motorised transport, encourages active travel, and facilitate travel by public

transport in preference to the private car;

- ensure accessibility for all, with the needs of people with disabilities and others whose mobility is impaired given particular consideration;
- promote the provision of adequate facilities for cyclists in new development;
- promote parking policies that will assist in reducing reliance on the private car and help tackle growing congestion;
- protect routes required for new transport schemes including disused transport routes with potential for future reuse;
- restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes; and
- promote road safety, in particular for pedestrians, cyclists and other vulnerable road users.

I do not consider the proposal is in line with the regional strategic objectives of the SPPS for transportation and land-use planning, as it will, if approved, impact on the route required for the new transport scheme of the A5 Western Transport Corridor. The New Approach to Regional Transportation, produced by the DRD, also supports these regional strategic objectives for transportation in Northern Ireland and highlights the aspirations of the Executive with regard to it. I do not consider this proposal supports these objectives.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the public road. DfI Roads initially indicated that visibility splays of 2.4m x 80m were required however could not be achieved as third party land is required. Amended plans were subsequently submitted which showed the required visibility splays, as well as a reduced red outline of the site to address concerns with the A5 WTC.

Policy AMP 4 of PPS 3 Protection for New Transport Schemes is also relevant and states that planning permission will not be granted for development that would prejudice the implementation of a transport scheme identified in a development plan.

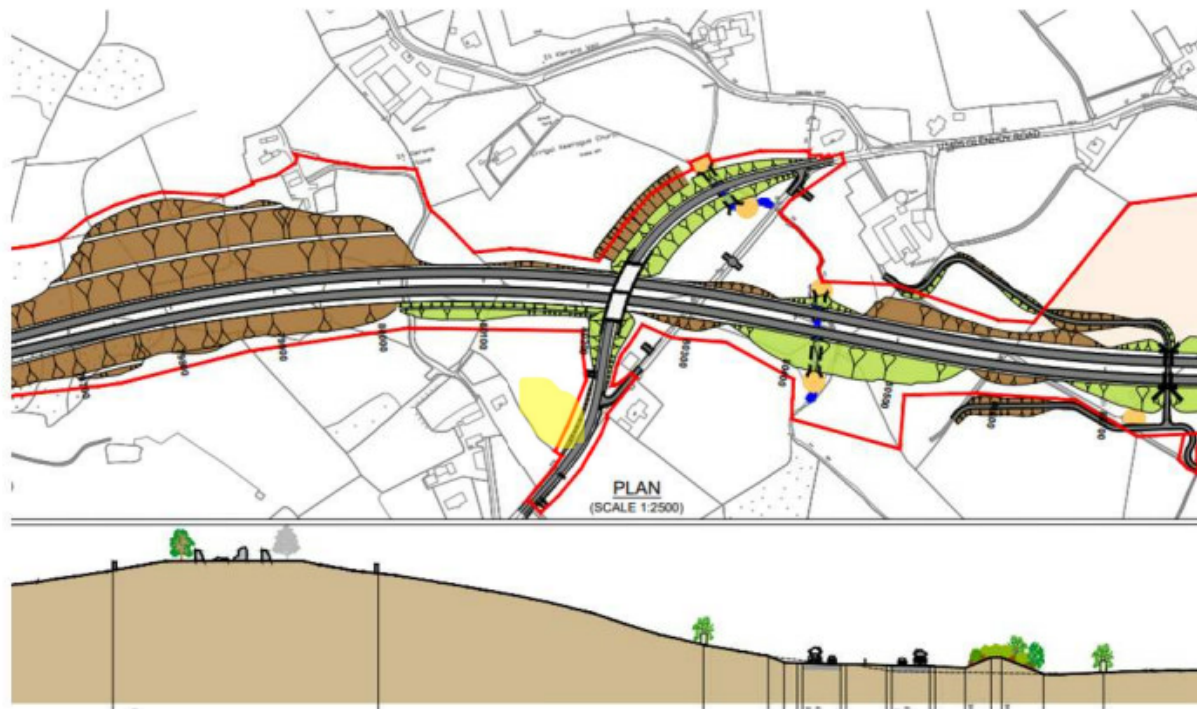
Para 5.30 states that the following matters will be taken into account in assessing whether the implementation of a particular scheme would be prejudiced by a development proposal:

- the nature of the proposal;
- the programming of the transport scheme; and
- the extent to which implementation of the scheme would be compromised by the carrying out of the proposed development.

DfI Roads were re-consulted and forwarded the recent drawing 01 rev. 01, road access plan and statement from agent received via Planning Portal on 05/07/2023 to the A5 WTC team for further consideration on the proposals. It has been confirmed that the proposal will still have an effect on the vesting envelope and associated maintenance

strip required for the A5 WTC scheme.

For ease of reference I have included below the A5WTC map for Glenhoy Road which shows how this application will impact on the Western Corridor Project (site shown highlighted in yellow).



DfI Roads recommend a refusal for this application as the proposal is contrary to Planning Policy Statement 3, AMP 4 Protection for New Transport Schemes, in that it would, if permitted, impact on the land take associated with the planned route of the A5 Western Transport Corridor dual carriageway project, as provided for within the associated Notice of Intention to make a Direction Order and Notices of Intention to make Vesting Orders and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

### **Planning Policy Statement 21 - Sustainable Development in the Countryside**

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

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

- a dwelling on a farm in accordance with Policy CTY 10.

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The application is seeking outline permission for an infill site between two properties to the west of the site (No's 68 and 70) and an agricultural shed to the east.

In terms of the road frontage here I do not consider there is a substantial and built-up frontage to enable development of a small gap site here. The site itself as defined in red is cut out of a larger agricultural field, between No. 70 to the west and an agricultural shed to the east. It is my view that the distance of 104m from No. 70 to this agricultural building is too large to be considered a small gap. I am of the opinion that the host field containing the site is a visual break that helps retain the rural character of the area and should be protected. To the west of the site, No. 70 sits 75m back from the public road with manicured gardens between the dwelling and the public road. I am content it has a frontage to the public road as the curtilage extends down to the road. No. 68 adjacent to, and west of, No. 70 sits approximately 70m back from the public road. A triangular shaped field lies between this dwelling and the public road and therefore the curtilage of No. 68 does not extend to the road and have a frontage to it. Ribbon development is cited as being detrimental to rural landscapes, creating a built-up appearance to roads. I do not consider that the existing development constitutes a substantial and built-up frontage as defined in policy. As such, another dwelling in this location will create build up and will add another dwelling into the existing ribbon of development. I therefore consider that the infilling of this gap site will be detrimental to the rural character of this area. In the absence of a substantial and built-up frontage consisting of a line of 3 or more buildings along a road frontage, the proposal is contrary to CTY 8.

Furthermore, I do not feel that policies other than CTY 8 of PPS21 should be explored at this stage given the DFI Roads comments in relation to the effect the proposal will have on the vesting envelope and associated maintenance strip required for the A5 WTC scheme.

CTY 13 of PPS 21 - Design and Integration states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application.

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



unacceptable where it results in a suburban style build up of development or adds to a ribbon of development. A new dwelling would visually link with No.70. The proposal would add to a ribbon of development which is a suburban style of development and I do not accept that this site is an infill opportunity within an existing ribbon of development. This would therefore cause detrimental change to, and further erode the rural character of the area. I do not consider the proposal complies with CTY 14.

### **Other Material Considerations**

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

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns.

In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal. The Errigal Keerouge Cross and Graveyard TYR059:005 lies to the north of the site, but this site should not have any negative impact on it given its distance from it (see below).



From consideration of all of the above I do not consider the proposal will fill a small gap in an otherwise substantial and built up frontage as defined in policy, and would therefore result in a detrimental change to the overall rural character of the area. I consider the proposed development is contrary to CTY1, CTY8 and CTY14 of PPS 21, SPPS Para 6.297 and AMP4 of PPS3 and I recommend refusal.

**Summary of Recommendation:**

Refuse is recommended

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

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

**Reason 2**

The proposal is contrary to Policy CTY 10 and CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

**Reason 3**

The proposed development is contrary to SPPS Para 6.297 as it is located within the land take associated with the planned route of the A5 Western Corridor dual carriageway project, and would if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

**Reason 4**

The proposal is contrary to Planning Policy Statement 3, AMP 4 Protection for New Transport Schemes, in that it would, if permitted, impact on the land take associated with the planned route of the A5 Western Transport Corridor dual carriageway project, as provided for within the associated Notice of Intention to make a Direction Order and Notices of Intention to make Vesting Orders and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

**Signature(s):** Deirdre Laverty

**Date:** 18 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 April 2023
<b>Date First Advertised</b>	17 April 2023
<b>Date Last Advertised</b>	17 April 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<p><b><u>Planning History</u></b></p> <p>Ref: LA09/2023/0422/O Proposals: Site for a 2 storey dwelling and domestic garage on a farm Decision: Decision Date:</p> <p>Ref: LA09/2020/0825/F Proposals: Replacement of existing turbine approved under M/2010/0660/F with an EW DW54 250KW Turbine comprising of a 50m hub height &amp; blade span of 27m (overall tip height of 77m) Decision: PG Decision Date: 09-JUN-21</p>	
<p><b>Summary of Consultee Responses</b></p> <p>Environmental Health Mid Ulster Council-Planning Response LA09-23-0422.pdf DAERA - Omagh-LA09-2023-0422-O.docx DFI Roads - Enniskillen Office-10-05-2023.docx Environmental Health Mid Ulster Council-</p>	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2023/0467/O	<b>Target Date:</b> 4 August 2023
<b>Proposal:</b> Erection of Dwelling and Domestic Garage in a gap site under policy CTY 8 of PPS 21	<b>Location:</b> Land adjacent and N.E. of 70 Glenhoy Road, Ballygawley
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Sean O'Neill 54 Errigal Road Ballygawley BT70 2DQ	<b>Agent Name and Address:</b> Mr BERNARD DONNELLY 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b> <p>The proposal is contrary to CTY1, CTY8 and CTY14 of PPS21 as it does not constitute a small gap site in a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development. In addition, the proposal is contrary to SPPS Para 6.297 and AMP4 of PPS3 as the proposed development impacts on the land take associated with the planned route of the A5 Western Corridor dual carriageway project and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads response 18/10/2023.
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads response dated 18/10/23
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads response 18/10/2023

### Representations:

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

### Summary of Issues

The proposal is not sited in a small gap site in a substantial and continuously built up

frontage. In addition, the proposed development impacts on the land take associated with the planned route of the A5 Western Corridor dual carriageway project.

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



The site is located adjacent to and south-east of No. 70 Glenhoy Road, outwith any development limits as identified in the Dungannon and South Tyrone Area Plan 2010 and approximately 4.5km SW of Ballygawley. The site outlined in red is rectangular in shape with the northern and eastern boundaries undefined as they are cut out of a larger agricultural field. The western and southern (roadside) boundaries of the field are defined by mature leylandii hedging. The submitted site location plan has been amended from that originally submitted to only show an access point outlined in red to the public road. This has the result of the southern boundary of the actual site being undefined on the ground. A landscaped garden lies to the west of the site, within the curtilage of No. 70 Glenhoy Road. The site rises gently from south to north.

The site is cut out of a larger agricultural field, with an agricultural shed further to the east. A single storey dwelling (No. 70) lies adjacent to and west of the site, with another single storey dwelling (No .68) and outhouses adjacent to it and another single storey dwelling further west, closer to the public road.

### **Description of Proposal**

Erection of dwelling and domestic garage in a gap site under policy CTY 8 of PPS 21

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

#### **Policy Consideration**

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

application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

### **Relevant Histories**

There are no relevant histories to consider on the site.

### **Representations**

Two (2) properties were notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of representation have been received.

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

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

### **Mid Ulster District Council Draft Plan Strategy 2030**

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

Para 6.297 of the SPPS further states that the regional strategic objectives for transportation and land-use planning are to:



- promote sustainable patterns of development which reduce the need for motorised transport, encourages active travel, and facilitate travel by public transport in preference to the private car;
- ensure accessibility for all, with the needs of people with disabilities and others whose mobility is impaired given particular consideration;
- promote the provision of adequate facilities for cyclists in new development;
- promote parking policies that will assist in reducing reliance on the private car and help tackle growing congestion;
- protect routes required for new transport schemes including disused transport routes with potential for future reuse;
- restrict the number of new accesses and control the level of use of existing accesses onto Protected Routes; and
- promote road safety, in particular for pedestrians, cyclists and other vulnerable road users.

I do not consider the proposal is in line with the regional strategic objectives of the SPPS for transportation and land-use planning, as it will, if approved, impact on the route required for the new transport scheme of the A5 Western Transport Corridor. The New Approach to Regional Transportation, produced by the DRD, also supports these regional strategic objectives for transportation in Northern Ireland and highlights the aspirations of the Executive with regard to it. I do not consider this proposal supports these objectives.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the public road. DfI Roads initially indicated that visibility splays of 2.4m x 80m were required however, could not be achieved as third party land is required. Amended plans were subsequently submitted which showed the required visibility splays, as well as a reduced red outline of the site to address concerns with the A5 WTC.

Policy AMP 4 of PPS 3 Protection for New Transport Schemes is also relevant and states that planning permission will not be granted for development that would prejudice the implementation of a transport scheme identified in a development plan.

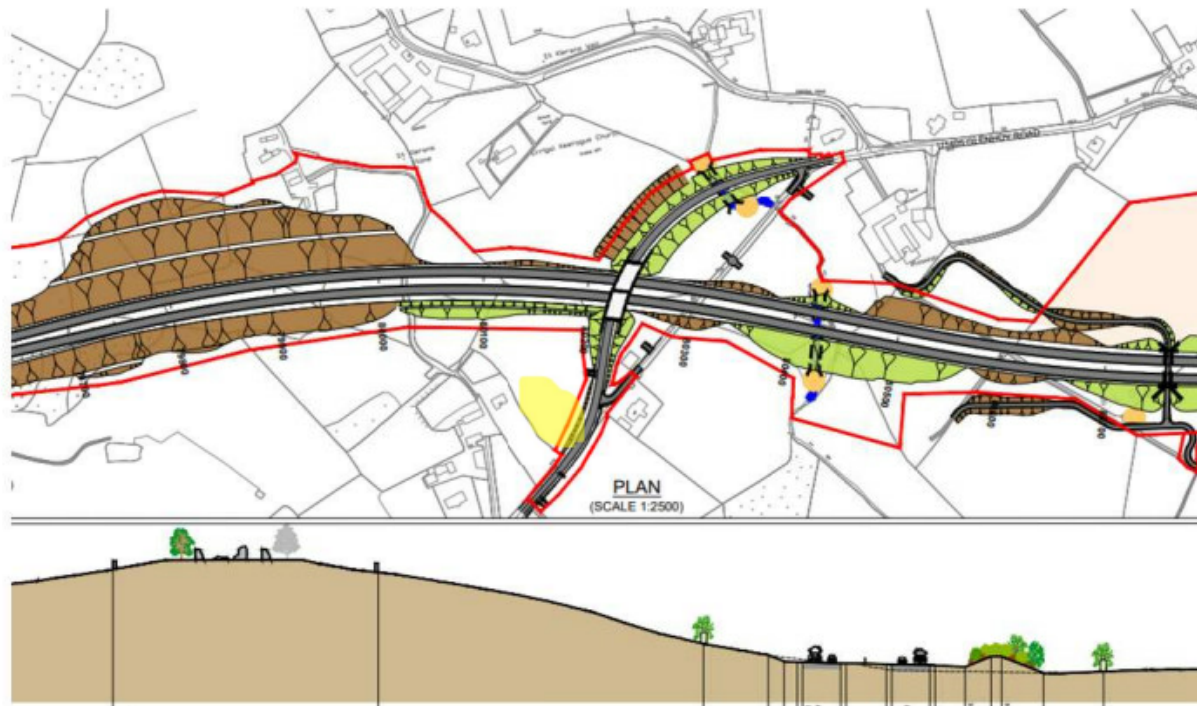
Para 5.30 states that the following matters will be taken into account in assessing whether the implementation of a particular scheme would be prejudiced by a development proposal:

- the nature of the proposal;
- the programming of the transport scheme; and
- the extent to which implementation of the scheme would be compromised by the carrying out of the proposed development.

DfI Roads were re-consulted and forwarded the recent drawing 01 rev. 01, road access plan and statement from agent received via Planning Portal on 05/07/2023 to the A5

WTC team for further consideration on the proposals. It has been confirmed that the proposal will still have an effect on the vesting envelope and associated maintenance strip required for the A5 WTC scheme.

For ease of reference I have included below the A5WTC map for Glenhoy Road which shows how this application will impact on the Western Corridor Project (site shown highlighted in yellow).



DfI Roads recommend a refusal for this application as the proposal is contrary to Planning Policy Statement 3, AMP 4 Protection for New Transport Schemes, in that it would, if permitted, impact on the land take associated with the planned route of the A5 Western Transport Corridor dual carriageway project, as provided for within the associated Notice of Intention to make a Direction Order and Notices of Intention to make Vesting Orders and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

I have spoken again with the Roads Service engineer dealing with this application on 25<sup>th</sup> October 2023. This follows correspondence from the agent indicating that a consultant from WSP, an engineering and professional services firm, held a site meeting with the A5WTC team. They indicate that the A5 WTC scheme will be providing an access of land owned by Mr O'Neill, the exact location is currently being defined by the highways team. The consultant has confirmed that the access will meet the planning requirements of 2.4mx80m. Once the location has been determined the necessary plan will be forwarded.

The Roads Service engineer explained that whilst it may be the case that an agreed access can be provided to the applicant, it is unclear where exactly this access may be and if it will be within the red outline of the site, or indeed even if it will be offered onto

the Glenhoy Road. For this reason they cannot recommend approval and still advise this application should be refused as it is contrary to AMP4 of PPS3.

### **Planning Policy Statement 21 - Sustainable Development in the Countryside**

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

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

Policy CTY 8 of PPS21 states that permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. The application is seeking outline permission for an infill site between two properties to the west of the site (Nos 68 and 70) and an agricultural shed to the east.

The site itself as defined in red is cut out of a larger agricultural field, between No. 70 to the west and an agricultural shed to the east. To the west of the site, No. 70 sits 75m back from the public road with manicured gardens between the dwelling and the public road. I am content it has a frontage to the public road as the curtilage extends down to the road. No. 68 adjacent to, and west of, No. 70 sits approximately 70m back from the public road. A triangular shaped field lies between this dwelling and the public road and therefore the curtilage of No. 68 does not extend to the road and have a frontage to it. Additionally, there is a distance of 104m from No. 70 to the agricultural building to the east of the site, and it is my consideration that this distance is too large to be considered a small gap. In terms of the road frontage here I do not consider there is a substantial and built-up frontage to enable development of a small gap site here. I am of the opinion that the host field containing the site is a visual break that helps retain the rural character of the area and should be protected. Ribbon development is cited as being detrimental to rural landscapes, creating a built-up appearance to roads. As such, another dwelling in this location will create build up and will add another dwelling into the existing ribbon of development. I therefore consider that the infilling of this gap site will be detrimental to

the rural character of this area. In the absence of a substantial and built-up frontage consisting of a line of 3 or more buildings along a road frontage, the proposal is contrary to CTY 8.

Furthermore, I do not feel that policies other than CTY 8 of PPS21 should be explored at this stage given the DFI Roads comments in relation to the effect the proposal will have on the vesting envelope and associated maintenance strip required for the A5 WTC scheme.

CTY 13 of PPS 21 - Design and Integration states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application.

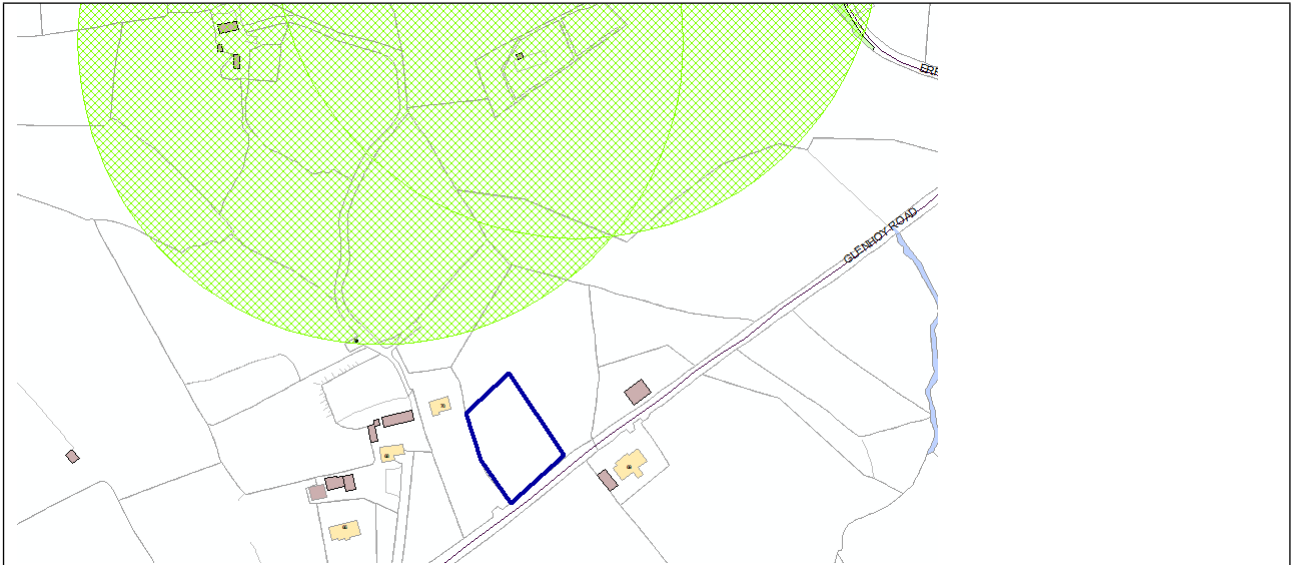
CTY 14 of PPS21 - Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It also states that a new building will be unacceptable where it results in a suburban style build up of development or adds to a ribbon of development. A new dwelling would visually link with No.70. The proposal would add to a ribbon of development which is a suburban style of development and I do not accept that this site is an infill opportunity within an existing ribbon of development. This would therefore cause detrimental change to, and further erode the rural character of the area. I do not consider the proposal complies with CTY 14.

### **Other Material Considerations**

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

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map (NI) I have no flooding concerns.

In addition to checks on the planning portal, Natural Environment Division (NED) map viewer available online has been checked and did not identify any natural heritage interests on site to raise any concerns in relation this proposal. The Errigal Keerouge Cross and Graveyard TYR059:005 lies to the north of the site, but this site should not have any negative impact on it given its distance from it (see below).



From consideration of all of the above I do not consider the proposal will fill a small gap in an otherwise substantial and built up frontage as defined in policy, and would therefore result in a detrimental change to the overall rural character of the area. I consider the proposed development is contrary to CTY1, CTY8 and CTY14 of PPS 21, SPPS Para 6.297 and AMP4 of PPS3 and I recommend refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site in a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along this stretch of the Glenhoy Road.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a suburban style build-up of development when viewed with existing buildings, and would

if permitted, create a ribbon of development at this stretch of the Glenhoy Road and therefore result in a detrimental change to the rural character of the countryside.

**Reason 4**

The proposed development is contrary to SPPS Para 6.297 as it is located within the land take associated with the planned route of the A5 Western Corridor dual carriageway project, and would if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

**Reason 5**

The proposal is contrary to Planning Policy Statement 3, AMP 4 Protection for New Transport Schemes, in that it would, if permitted, impact on the land take associated with the planned route of the A5 Western Transport Corridor dual carriageway project, as provided for within the associated Notice of Intention to make a Direction Order and Notices of Intention to make Vesting Orders and would, if permitted, prejudice the implementation of this strategically significant Northern Ireland Executive Flagship project.

**Signature(s):** Deirdre Laverty

**Date:** 25 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 April 2023
<b>Date First Advertised</b>	1 May 2023
<b>Date Last Advertised</b>	1 May 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 69 Glenhoy Road Ballygawley Tyrone BT70 2AY The Owner / Occupier 70 Glenhoy Road Ballygawley Tyrone BT70 2AY	
<b>Date of Last Neighbour Notification</b>	28 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Dfl Roads response 18/10/2023. DFI Roads - Enniskillen Office-Outline resp.docx DFI Roads - Enniskillen Office-Outline resp.docx DFI Roads - Enniskillen Office-Dfl Roads response dated 18/10/23 DFI Roads - Enniskillen Office-Dfl Roads response 18/10/2023	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 REV 01 Site Location Plan Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2023/0552/F	<b>Target Date:</b> 30 August 2023
<b>Proposal:</b> Proposed residential development comprising 2 semi detached dwellings and 2 detached dwelling (4 units in total) with private access road and car parking (amended plans)	<b>Location:</b> Adjacent to and immediately NW of 48 Main Street Coagh, Cookstown
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Nigel Hagan 52 Main Street Coagh Cookstown BT80 0EP	<b>Agent Name and Address:</b> Kee Architecture Ltd 9A Clare Lane Cookstown BT80 8RJ
<b>Executive Summary:</b>  Application was originally submitted for 5 dwellings. 2 sets of semis and 1 detached.  Site visit was carried out and it became apparent that the impact of the original scheme particularly on existing dwellings to the west (The Courtyard) would be unacceptable. Also it was noted that the proposed detached dwellings facing gable on to the road would be unacceptable and not in keeping with the existing building pattern.  Amendments were sought and submitted. These amendments were provided and reduced the pair of semis beside the Courtyard down to a single dwelling with a garden area to the west, increasing separation distance between proposed dwellings and courtyard. The detached house was also re orientated to face the road in keeping with existing building pattern.  Policies / guidance assessed  o Cookstown Area Plan (CAP)	

- o SPPS
- o PPS 7 - Quality Residential Environments
- o Creating Places
- o PPS 3- Access, Movement and Parking

#### Consultations

- o Roads OK
- o Env Health OK
- o NIWater recommend refusal due to ability connect to sewerage network and the proximity to WWTW. Negative condition has been attached to deal with connection to network and issues of proximity to WWTW were not given determining weight because there is already intervening development beside the site and the WWTW.

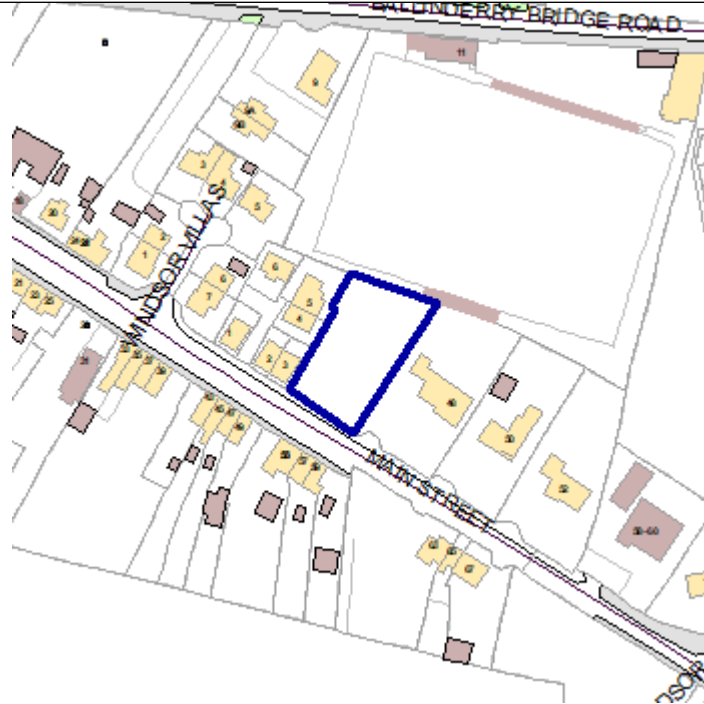
#### Third Party Representations

There were 5 objections to original scheme and 1 objection to the amended scheme. Objections have been fully considered in the body of the report.

Recommendation is to approve.

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Response Template.docx
	NI Water - Multiple Units West	LA09-2023-0552-F.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0552 F dwellings Main st., Coagh.doc
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx

### Representations:

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

### Summary of Issues

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

The site is a rectangular shaped plot of land immediately adjacent to the Main Street within the settlement of Coagh. The northern boundary of the site consists of a post and wire fence which separates the site from Coagh United FC main pitch. The eastern boundary of the site is a stepped wall which divides the site from no. 48 Main Street. The western boundary is low block wall which acts as a boundary between the site and the development immediately adjacent known as The Courtyard. The roadside boundary consists of a small hedge and an agricultural gate.

The general character of the area is a typical village streetscape with houses fronting onto the main street as well as shops in the locality. To the south east of the site, there are more detached residential plots with the housing density higher towards the main part of the village.

## **Description of Proposal**

Proposed residential development comprising 4 semi detached dwellings and 1 detached dwelling with private access road and car parking.

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

### **Policy Consideration**

The relevant policy considerations are;

- Cookstown Area Plan (CAP)
- SPPS
- PPS 7 – Quality Residential Environments
- Creating Places
- PPS 3- Access, Movement and Parking

### **Cookstown Area Plan**

The site is located within the settlement limit of Coagh. It is just outside the designated Area of Townscape Character (ATC). Therefore, whilst the ATC designation is not a determining factor, it signifies the existence of a distinctive and traditional townscape which must be taken into consideration.

The applicant initially had proposed to site one of the proposed houses with a gable end facing to the road. Whilst not within the ATC, I was of the view that this would be at odds with the traditional streetscape and asked for the scheme amended so that the dwelling fronted onto the road. The agent agreed to this and consequently, the house in question

now fronts onto the road, in line with the established building pattern. Hence, whilst not within the ATC, the applicant has successfully taken account of the existing building pattern that contributes to the wider character of the area. This change in house orientation will also improve the relationship between the proposal and no. 3 The Courtyard so that the gable windows of the proposed house are all that look towards the existing property, as opposed to the windows of the rear elevation, as would've been the case.

### SPPS

The SPPS is largely focussed on the role of LDPs in allocating land for housing within settlements but does clearly state that role of the planning system is promote more sustainable housing development within existing urban areas. It also states that planning system should promote sustainable patterns of housing development that lead to more compact village forms. There is therefore a very general presumption in favour of the notion of small housing developments within villages such as Coagh providing they are sustainable and help to promote quality residential environments.

### PPS 7 – Quality Residential Environments

QD 1 of PPS 7 states that all proposals for residential housing development will be expected to conform to all the following criteria which have been assessed in turn as laid out below;

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

It has already been demonstrated how the proposal has taken account of the existing development pattern, particularly towards to the centre of Coagh where higher density housing fronts onto the Main Street and that the developer has amended the scheme to reflect this.

The site is approx.. 0.12 hectares in area and contains 4 proposed dwellings. This would give a density of around 32 units per hectare which is a relatively high density. However, when considered against nearby housing developments particularly towards the main part of the settlement of Coagh, other developments have a similar or higher density, most notably The Courtyard which is immediately adjacent and which has a density of approx.. 42 units per hectare and Windsor Villas which has a density of around 28 units per hectare.

From this site, to the east towards Ardboe, the density of development in the settlement is notably lower. However, towards the centre of the village there is a higher density of development and it is my view that this proposal which favours a higher density is still in keeping with the building pattern in the area.

The scale and massing of the proposed houses are in keeping with the general area and the agent has provided a streetscape drawing (drawing no. 02 rev 1) which shows the

ridge heights of the new dwellings in keeping with those of the neighbouring dwellings. The slightly sloping context of the general topography will mean that the ridge heights will vary in the proposed development from anywhere between 52.65 – 54.12. This compares with the adjacent ridge heights of no. 48 and the Courtyard of 53.22 and 53.23. Therefore whilst the houses in the new development will be slightly taller, the difference is not considerable and the overall appearance of the dwellings will be that they are in keeping in terms of scale and massing, with the existing dwellings in the vicinity.

The design of the buildings are typical of urban development projects with 2 semi detached dwellings and a “detached townhouse” style dwellings (HTCs A and C) being typical of dwellings commonly built in settlements and villages. HT B is a larger, detached dwelling but is still similar in terms of its scale, design and proportions to dwellings which are commonly found in towns and villages such as and including Coagh.

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

The Historic Environment Map Viewer shows a listed building (dwelling) standing on the site of the dwellings fronting onto the main street as part of The Courtyard development, immediately adjacent to the site. There is no evidence of this historic asset on the ground and it is highly likely that it no longer exists.

I have consulted with HED for them to provide clarity and they have responded that the building is no longer listed but recorded as “record only”. It is therefore likely that it has been removed to facilitate the construction of the Courtyard development. HED have commented that the nearest listed building is Coagh Presbyterian Church but that it is far enough away from the site for it not to be impacted by this proposal.

The proposal therefore will have no impact on any archaeological or built heritage features.

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

The requirement to provide public open space only applies to residential developments in excess of 25 units, as per OS 3 of PPS 8.

In relation to private amenity space, Creating Places states that “*a variety of different garden sizes should be provided and back garden provision should therefore be calculated as an average space standard for the development as a whole, and should be around 70 sq m per house or greater.*”

The proposed development contains 4 separate units each with their own private amenity space. The amount of private amenity space shown for each dwelling ranges from 51sq. metres to 129 sq. metres and this results in an average private amenity space for the development of just under 90 sq. metres each.

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

This criterion is not relevant to a development of this size and is more fitting for a large scale development whereby facilities can be incorporated to benefit the wider community as well as the inhabitants of any such development

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

The development will be linked to a public footpath which will enable residents to easily walk to the local shops and services available within Coagh Village.

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

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

The layout drawing shows all dwellings as having at least 2 parking spaces available to each dwelling which is in accordance with notional parking standards for this type of development.

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

The design, scale and form of the dwellings is in keeping with the typical house design in this kind of development. Typical finishes are grey concrete tiles with grey PVC doors, black aluminium rainwater goods and white render finish.

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

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

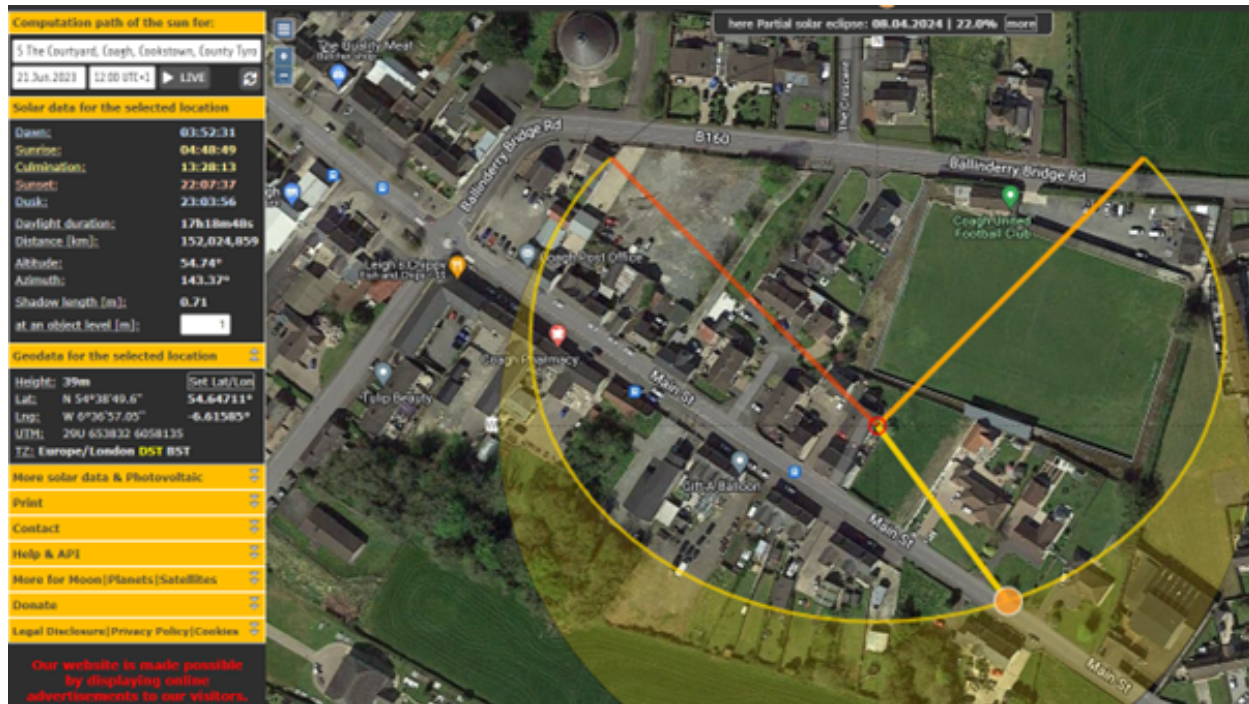
When this scheme was submitted it contained 5 units consisting of 2 pairs of semis along the back of the site with a detached dwelling towards the front.

The scheme as originally proposed would have caused a detrimental impact on the

residential amenity of no 5 The Courtyard by virtue of the fact that the proposed pair of semis in the back left of the site would have been too close to the rear boundary and rear amenity space of that property. The result would have been a gable wall within 5 m of the rear of no 5 and 1.3m from the boundary wall. This would have been dominant and overbearing when viewed from no 5 and would've caused a considerable degree of overlooking into the rear amenity area of no. 5. This would have been severely detrimental to the residential amenity of people living at this address.

The agent however, has significantly amended the design to reduce this pair of semis down to a detached dwelling and to move the remaining dwelling away from the boundary of no 5. There is now a garden area immediately adjacent to no 5 instead of a building, with the remaining building now being located approx. 8m from the rear of no.5 and 5 metres from the boundary wall.

In terms of loss of sunlight to no.5 The Courtyard, the increased separation will mitigate any direct sunlight which may be reduced but sun path diagrams show that during the strongest sunlight hours, the proposed dwelling in question will not impact the sunlight entering the rear amenity area of no.5 to any significant degree (see below).



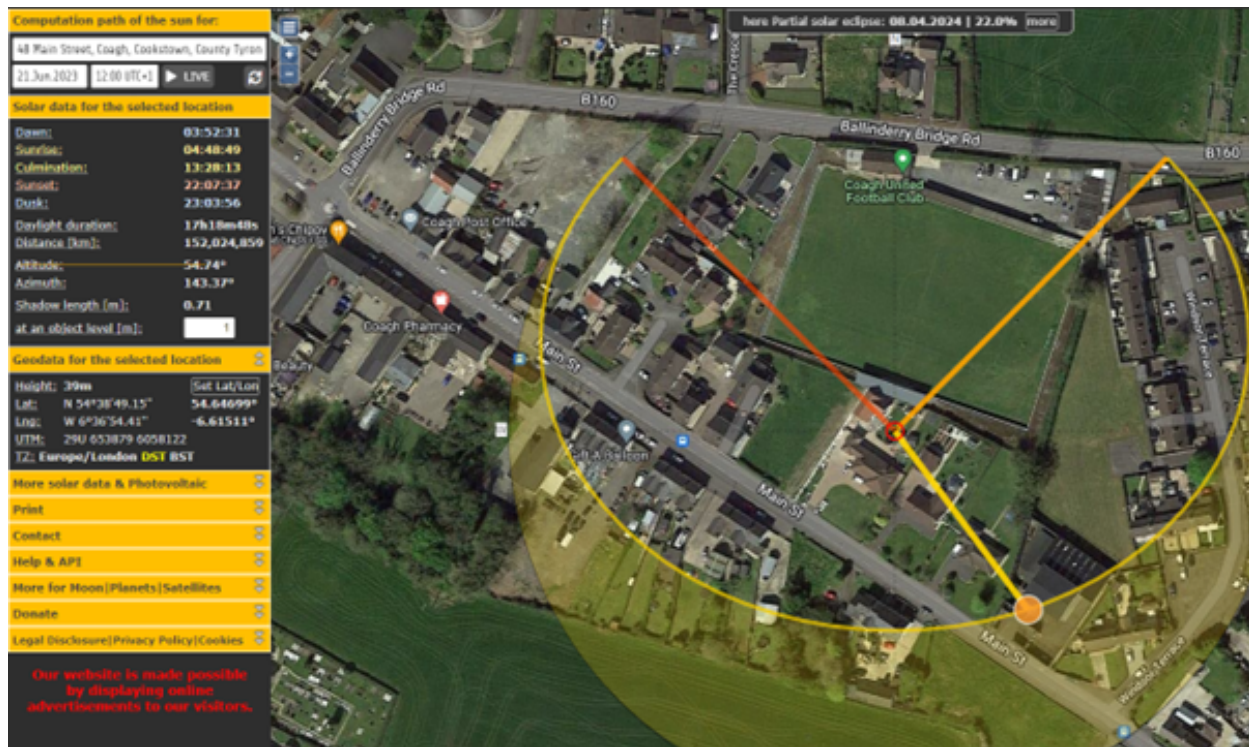
I am therefore satisfied that the amendments to the design which have been secured have resulted in a scheme which does not have a significantly negative impact upon the amenity of no.5 The Courtyard

The other pair of semi detached dwellings have not been altered but it is my opinion that they will have much less of an impact on the nearest existing dwelling (no.48 Main Street) than the other pair of semis would have had on no. 5 The Courtyard, if the scheme had been left unchanged. The proposed dwellings will be approx. 1.5m from the boundary wall and 6m from the nearest part of no. 48. However, the room (in no. 48) in



question, to which the dwellings will be closest, does not appear to be a principal room in the house and appears as an additional TV Room / games room / play room from what I witnessed during my two site inspections. The proposed pair of semis will not protrude past the line of sight from the main window in this room.

In terms of impact on rear amenity space and loss of sunlight to same, it is difficult to see, when considered in the context of the below sun path diagram, that there will be any significant loss of sunlight as a result of the new dwellings. During the strongest hours of sunlight, the new dwellings will not have any impact on sunlight received into no. 48 (see below) and when the sun is in a position so that the new dwellings would have an impact on sunlight (i.e. later in the evening), this is mitigated by the fact that the recently constructed garage at no. 48 would play a major role in blocking sunlight to the rear of the property in any case.



In terms of other adjacent land uses, I have raised informally with Environmental Health that there may be a conflict between new properties and the adjacent football club. However, given the existing properties which are already situated close to the football club without any issues, they did not raise a concern. Their formal response to the consultation on this application raised no objections.

NIWater have raised a concern that the development is within an odour consultation zone between existing infrastructure and the proposed site. The only NIWater infrastructure which I am aware of in Coagh is located to the west of the village with significant amount of intervening development between it and this site. Therefore, it would be difficult to sustain an argument that this site is incapable of being developed because of smell from this piece of NIWater infrastructure. During my two site inspections I did not experience any odours and Environmental Health, as already

stated, have not raised any objections on these grounds.

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

The development is located within the built form of Coagh along the Mian Street which benefits from street lighting. There are no alleyways or blind spots where anti social behaviour can develop. There is good natural surveillance from existing and proposed properties which will deter crime and / or antisocial behaviour.

PPS 3 – Access, Movement and Parking

DFI Roads initially had concerns that appropriate turning radii were not available with the original scheme. They have been re consulted with the amended scheme and have no objections. The proposed dwellings have 2 parking spaces per unit which is acceptable in a development such as this.

**OTHER MATERIAL CONSIDERATIONS**

The following houses were notified of the application;

- 3 The Courtyard
- 4 The Courtyard
- 5 The Courtyard
- Coagh United FC
- 55 Main Street
- 57 Main Street
- 59 Main Street

5 Objections were received and are considered below. Following receipt of amended plans, neighbours were re notified. Even though the scheme was reduced in terms of numbers of units, it was felt that the material change in layout of some houses meant that re notification of neighbours was desirable. No. 48 Main Street made a second representation on the back of the re notification of neighbours.

Objection from 57 Main Street

The objector has raised two issues – that the development will block the view they currently have and that visitors to these houses will park in the parking spaces outside their home.

There is no “right to a view” in planning policy and the view which the objector refers to is presumably a reference to the fact that there is a break in the building line opposite their house. This is a site within the development limit and as such there is a presumption in favour of development at this site. To insist on it not being developed because of a view which a resident believes they currently have, is not a valid planning concern.

In relation to the parking issue, there are two car parking spaces per dwelling provided and DFI Roads have not raised any concern over the required level of car parking. From my site inspection, I assume the parking spaces to which the objector relates are public parking spaces and can be parked in by anyone and this is not something which the planning system can regulate.

#### Objection from no. 3 The Courtyard

The objector has raised the following issues;

- Lack of on street parking for their property
- Overhsadowing, loss of privacy and loss of sunlight.
- Contrary to criteria laid out in PPS 7

In relation lack of on street parking for the objectors property, there are two car parking spaces per dwelling provided and DFI Roads have not raised any concern over the required level of car parking. The objector has stated that they would have concerns over future parking associated with this development. It is unclear as to what this relates to but as with the previous objection, is the concern relates to people parking on the public street parking, this is not something which planning can control.

The objector also states that they have concerns over a loss of privacy resulting from the rear of the proposed dwelling looking into their landing window. This was a reference to the initial site layout where the detached property was orientated with the gable to the road. The window in question, as acknowledged by the objector is a landing window and therefore, not a window which belongs to a room within their dwelling, much less a principal room such as a living room or kitchen. I am therefore satisfied that there will be no loss of privacy to no. 3 the Courtyard by virtue of this development.

In relation to loss of sunlight, I have reviewed this using sun path diagram modelling and am off the view that from 1pm onwards at the peak times of the year for sunlight, the objector will not be impacted by this this proposed development, in terms of loss of sunlight. Possibly, the dwelling will be impacted upon between the hours of 11am – 1pm but after this time, the line of sunlight will not be impacted.

As already has been mentioned, the impact will relate to a landing window and not a main window. I am content therefore that loss of sunlight will not be a significant issue at this property.

I have considered extensively the proposal and how it complies with PPS 7, so in relation to that part of this objection, it is addressed in the preceding paragraphs.

#### Objection from no. 4 The Courtyard

The objector has raised the following issues;

- Overbearing and loss of privacy impacting from unit 2 on the rear of their property

and also the impact of unit 1 causing loss of sunlight.

- Not complying with PPS 7 – too many units on one site possibly leading to overdevelopment of a restricted site. Development is not in keeping with the building pattern of the area, particularly towards the east.
- Objection to gable facing onto the road
- Insufficient parking provision
- Visibility splays are not sufficient and are not achievable

In relation to unit 2 impacting on the objector by way of overbearing and loss of privacy, it is noted that the proposed dwellings will not be directly adjacent to no 4 The Courtyard. The amendments to the scheme will mean that the proposed unit is now further way from no. 4 The Courtyard (and the bloc is reduced from 2 dwellings to 1 dwelling). The separation distance between the two units is now 11m from the front door of unit 2 to rear elevation of no. 4 and given the orientation of the two units with the proposed unit not being directly behind the existing unit, I do not accept that there will be and loss of privacy experienced by the objector.

In terms of loss of sunlight, no. 4 The Courtyard will not experience any significant loss of sunlight as a result of this development. The objector asserts that the detached unit at the front of the site will result in loss of sunlight to their property. However, given the location of the proposed unit, it will only be in the path of sunlight from around 1pm – 2pm and this will be when the sun is at its highest in the sky. This coupled with the separation distance between the proposed dwelling and no.4 (almost 20m) will mean, in my opinion that loss of sunlight will not be an issue, in the way the objector states.

I have considered extensively the proposal and how it complies with PPS 7, so in relation to that part of this objection, it is addressed in the preceding paragraphs.

The dwelling which originally faced with gable to the road has been re orientated. In this regard, I agree with the objector as has been outlined in my report. The dwelling is now fronting onto the road and this is more in keeping with the streetscape.

In relation lack of on street parking for the objectors property, there are two car parking spaces per dwelling provided and DFI Roads have not raised any concern over the required level of car parking. The objector has stated that they would have concerns over future on street parking associated with this development but as with the previous objection, the concern relates to people parking on the public street and this is not something which the planning system can control.

DFI Roads are content with visibility splays as shown for this development on drawing 02 rev 1. In relation to them being unachievable, a negative condition will be attached to ensure that no development can take place until the required splays are in situ.

#### Objection from no. 5 The Courtyard

The objector has raised the following issues;

- Extension to their property not shown on submitted plans – they cant be sure its

been considered therefore

- No public amenity space or planting
- Boundary wall could fail
- Impacts of noise from construction
- Not complying with PPS 7 – too many units on one site possibly leading to overdevelopment of a restricted site. Development is not in keeping with the building pattern of the area, particularly towards the east.
- Unit 2 – too close to their property – overbearing impact
- Objection to gable facing onto the road
- Insufficient parking provision

In relation to the objectors concerns about their extension not showing on the site layout, their concerns have been addressed with amended scheme now showing the extension which exists to the side of no. 5.

There is no requirement for public amenity space for a development of this size. In relation to planting, this is normally required to soften the impact of the development but given the urban setting of this site, I do not feel that the provision of planting is essential in this case.

Perceived impacts of the development on boundary walls are a civil matter between parties and not something which planning can adjudicate on.

Environmental Health have been consulted and have raised no issues regarding noise or fumes from construction. This is something which they can condition if they feel it will be a serious issue for residential amenity but have not done so in this case.

I have considered extensively the proposal and how it complies with PPS 7, so in relation to that part of this objection, it is addressed in the preceding paragraphs.

The dwelling which originally faced with gable to the road has been re orientated. In this regard, I agree with the objector as has been outlined in my report. The dwelling is now fronting onto the road and this is more in keeping with the streetscape. Similarly, the dwellings which were closest to no. 5 The Courtyard have been reduced to only one dwelling with a much increased separation distance between the remaining house and no. 5. The objectors points were considered relevant in this case and the amendments reflect the valid concerns which they had.

In relation lack of on street parking for the objectors property, there are two car parking spaces per dwelling provided and DFI Roads have not raised any concern over the required level of car parking. The objector has stated that they would have concerns over future on street parking associated with this development but as with the previous objection, the concern relates to people parking on the public street and this is not something which the planning system can control.

Objection from no. 48 Main Street

The objector has raised the following issues;

- Loss of privacy caused by property adjacent to the objectors boundary
- Loss of sunlight
- Not complying with PPS 7 – Dwelling with gable facing the road and too many units on one site possibly leading to overdevelopment of a restricted site. Development is not in keeping with the building pattern of the area, particularly towards the east.
- Insufficient parking provision
- Objection to gable facing onto the road
- No public amenity space or planting
- Visibility splays are not sufficient and are not achievable

The loss of privacy referred to by the objector relates to a bathroom window which they claim would look into their private rear amenity space. The fact that this window belongs to a bathroom and will have frosted glass. The fact that this is not a principal room in the dwelling and will invariably have frosted / obscure glazing mean that issues of loss of privacy are not worthy of concern in my opinion.

The concerns raised about loss of sunlight at no. 48 have been considered in my assessment of PPS 7 above.

I have considered extensively the proposal and how it complies with PPS 7, so in relation to that part of this objection, it is addressed in the preceding paragraphs.

The dwelling which originally faced with gable to the road has been re orientated. In this regard, I agree with the objector as has been outlined in my report. The dwelling is now fronting onto the road and this is more in keeping with the streetscape. Similarly, the dwellings which were closest to no. 5 The Courtyard have been reduced to only one dwelling with a much increased separation distance between the remaining house and no. 5. The objectors points were considered relevant in this case and the amendments reflect the valid concerns which they had.

In relation lack of on street parking for the objectors property, there are two car parking spaces per dwelling provided and DFI Roads have not raised any concern over the required level of car parking. The objector has stated that they would have concerns over future on street parking associated with this development but as with the previous objection, the concern relates to people parking on the public street and this is not something which the planning system can control.

DFI Roads are content with visibility splays as shown for this development on drawing 02 rev 1. In relation to them being unachievable, a negative condition will be attached to ensure that no development can take place until the required splays are in situ.

There is no requirement for public amenity space for a development of this size. In relation to planting, this is normally required to soften the impact of the development but given the urban setting of this site, I do not feel that the provision of planting is essential

in this case.

This objector has raised concerns a second time via a public comment following a consultation with the amended scheme. The concerns raised are the same as the initial correspondence, although some of the text has been edited to reflect how the development now only relates to 4 dwellings and not 5. No new concerns / issues raised via the comments made after the second neighbour notification.

**Summary of Recommendation:**

Approve is recommended

Given all of the above lengthy considerations of both planning policy and objections raised, I am of the view that the amendments received to this scheme have made it acceptable in terms of prevailing planning policy and as a result, I recommend that this application is approved subject to the following conditions.

Approval Conditions

Condition 1

As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit.

Condition 2

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 02 rev1 which was uploaded to the portal on 20th July 2023, prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Condition 3

None of the residential units hereby approved shall be commenced until a satisfactory method for sewage disposal has been submitted to and agreed with Mid Ulster District Council in consultation with NI Water.

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

**Signature(s):** Colin McKeown

**Date:** 17 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	17 May 2023
<b>Date First Advertised</b>	30 May 2023
<b>Date Last Advertised</b>	30 May 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  Chairperson, Coagh United FC 11 Ballinderry Bridge Road Coagh Tyrone BT80 0BR</p> <p>The Owner / Occupier  1 The Courtyard Coagh Tyrone BT80 0EG</p> <p>The Owner / Occupier  3 The Courtyard Coagh Tyrone BT80 0EG</p> <p>The Owner / Occupier  4 The Courtyard Coagh Tyrone BT80 0EG</p> <p>The Owner / Occupier  5 The Courtyard Coagh Tyrone BT80 0EG</p> <p>The Owner / Occupier  48 Main Street Coagh Co Tyrone</p> <p>The Owner / Occupier  55 Main Street Coagh Tyrone BT80 0EP</p> <p>The Owner / Occupier  57 Main Street Coagh Tyrone BT80 0EN</p> <p>The Owner / Occupier  59 Main Street Coagh Tyrone BT80 0EN</p>	
<b>Date of Last Neighbour Notification</b>	29 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2019/1595/F  Proposals: Detached Garage.  Decision: PG  Decision Date: 14-JAN-20</p> <p>Ref: I/1990/0097  Proposals: Bungalow</p>	

Decision: PG  
Decision Date:

Ref: I/2012/0191/F

Proposals: Installation of a 6 kw wind turbine on 15m mast to reduce running costs and produce energy from renewable source

Decision: PR

Decision Date: 23-APR-13

Ref: I/2003/0501/F

Proposals: Proposed 6 No. dwellings

Decision: PG

Decision Date: 16-NOV-04

Ref: LA09/2023/0552/F

Proposals: Proposed residential development comprising 4 semi detached dwellings and 1 detached dwelling with private access road and car parking

Decision:

Decision Date:

Ref: I/2006/1082/F

Proposals: Proposed bedroom & en-suite extension to side of dwelling

Decision: PG

Decision Date: 16-FEB-07

Ref: I/2002/0154/O

Proposals: Proposed Housing Development

Decision: PG

Decision Date: 25-MAR-03

Ref: I/1993/6037

Proposals: Restoration of Rose Cottage 31 Main Street Coagh

Decision: QL

Decision Date:

Ref: I/2014/0078/F

Proposals: Single Storey Side Extension To Provide Bedroom and Disabled Shower Room

Decision: PG

Decision Date: 27-MAY-14

Ref: I/1984/0391

Proposals: CHANGING ROOMS TO FOOTBALL PITCH

Decision: PG

Decision Date:

Ref: I/1983/0068  
Proposals: NEW FOOTBALL PITCH  
Decision: PG  
Decision Date:

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Response Template.docx  
NI Water - Multiple Units West-LA09-2023-0552-F.pdf  
Environmental Health Mid Ulster Council-LA09 2023 0552 F dwellings Main st.,  
Coagh.doc  
Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-Roads Consultation full approval.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Plans Plan Ref: 03  
Proposed Plans Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 02 rev 1  
Proposed Plans Plan Ref: 05

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2023/0612/F	<b>Target Date:</b> 14 September 2023
<b>Proposal:</b> Construction of 1 no. two storey detached dwelling with garage	<b>Location:</b> Land adjacent and East of 146C Drumagarner Road, Kilrea
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Niall Dallatt 143 Drumagarner Road Kilrea BT51 5TW	<b>Agent Name and Address:</b> Gerard McPeake Architectural Ltd 31A Main Street Limavady BT49 0EP
<b>Executive Summary:</b>  This application is brought to the planning committee with a recommendation for approval. An objection letter was received from a resident of a nearby dwelling. It is deemed that the issues raised in this objection letter have been adequately addressed.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0612-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

It should be noted that the objection letter in this case was received before the scheme was reduced from 2 no. dwellings to 1 no. dwelling. The concerns raised in this objection letter include the following:- Loss of residential amenity and privacy as a result of overlooking into rear garden from proposed dwelling(s). This includes concerns pertaining to loss of sunlight and concerns about loss of rural features. - Issue with two dwellings being proposed instead of one. - Road safety concerns. These issues are

addressed in the main body of the report.

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

The site of the proposed is located approximately 2 miles outside and south west of the settlement of Kilrea and outside any settlement limits in the Mid Ulster district. The site is therefore located in the rural countryside as defined in the Magherafelt Area Plan 2015. The application site is located to the rear of property nos. 146a, 146b and 146c Drumagarner Road which are road-fronting dwellings. The site is accessed via an existing laneway off the main road which serves several other properties. The 0.1 hectare area site is relatively flat and currently overgrown. Much of its boundaries are made up of the boundaries of other properties in the form of fencing. The site is adjacent and to the rear of nos. 146a, 146b and 146c along its western boundary which is marked by fencing. The north eastern boundary is provided by the shared laneway, of which there are 3 dwellings on the other side of the lane. The south eastern boundary is defined by mature trees which encroach heavily on the site. Finally the southern boundary is defined by post and wire fencing and adjoins an adjacent field to the south of the site. The shared laneway ends with nos. 140 and 142 Drumagarner Rd, which are located adjacent to and south west of the site. The wider surrounding environment consists mostly of agricultural fields with scatterings of dwellings and farm buildings dotted all along the Drumagarner Rd.

### **Description of Proposal**

The proposed is a full application for the proposed construction of 1 no. two storey detached dwelling with garage. Note: The original proposal for this application was for 2 no. two storey detached dwellings (without garages). Following discussions with the agent, amended plans were received reducing the scheme to a single dwelling.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

LA09/2019/1573/O – Proposed site for dwelling and garage – To the rear of 146a, 146b, 146c Drumagarner Road Kilrea – Permission Granted 20/05/2020

#### **Representations**

One objection letter was received against the application proposal from a resident of a neighbouring dwelling identified as 146 Drumagarner Road. It should be noted that this

objection letter was received before the scheme was reduced from 2 no. dwellings to 1 no. dwelling. The concerns raised in this objection letter include the following:

- Loss of residential amenity and privacy as a result of overlooking into rear garden from proposed dwelling(s). This includes concerns pertaining to loss of sunlight and concerns about loss of rural features.
- Issue with two dwellings being proposed instead of one.
- Road safety concerns.

Following this objection letter, the agent provided minor amendments which included the removal of one of the first floor side elevation windows and the obscure glazing of the other (for both dwellings). Upon reviewing the proposal with the senior planner, including the full particulars of the objection letter, it was agreed that the proposal would still result in an unacceptable loss of residential amenity of adjacent properties. The agent was advised to reduce the scheme to a single dwelling which has since been done. The amended drawings provide for a proposed single dwelling and garage. I am pleased that the proposed has no first floor side elevation windows which removes any potential for overlooking into neighbouring properties (particularly the dwellings to the north west). The closest elevation to this boundary is now 6.5 metres away, as opposed to the original separation distance of 2.5 metres. I am content that these changes adequately address the issues pertaining to loss of residential amenity as well as the second issue.

With regard to the concerns for the access and the use of the shared laneway, DfI Roads were consulted in this application and provided no objection to the proposal in their response dated 29/08/2023. The reduced scheme from two dwellings to one dwelling should also minimise this concern. Having considered Appendix C: Adoption and maintenance (page 163) of Creating Places, it is accepted that developments of more than 5 residential units requires the access road to be brought up to an adoptable standard. The proposed will bring that number up to 6 residential units, though it is considered that this is not applicable to this application because the proposed is for a single dwelling located in the countryside and not within an urban settlement.

On the above basis I am content that all the concerns in the objection letter have been adequately considered and remedial action taken where necessary to address these issues.

Following receipt of the most recent drawings reflecting the reduced scheme, all neighbours (including the objector) were re-notified. No further comments have been provided since.

### Magherafelt Area Plan 2015

The site of the proposed is located approximately 2 miles outside and south west of the settlement of Kilrea and outside any settlement limits in the Mid Ulster district. The site is therefore located in the rural countryside as defined in the Magherafelt Area Plan 2015.

### Other Constraints

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

and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

There are no issues pertaining to flooding at the site.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

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

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

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

The proposed involves the alteration of an existing access to a public road. DfI Roads were consulted who provided no objection to the application, subject to condition. In light of this, I am content that the proposed complies with Policy AMP 2 of PPS 3.

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

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 states that planning permission will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. This application is therefore considered under CTY 8 – Ribbon Development. The principle of development for a gap site single dwelling at this site is established under the extant LA09/2019/1573/O approval. Given the case is going to committee, its compliance with Policy CTY 8 is reaffirmed in the below paragraph.

In terms of the plot size, I am content that the site would be able to accommodate the proposed dwelling. For the purposes of this policy, the definition of a substantial and built



up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear. In this case, the road comprises a private lane with a built up frontage of 3 dwellings, starting from the south end of the lane with no. 142 Drumagarner Rd, followed by a second dwelling adjacent and north west of this, followed by the gap site, and finally followed by no. 146a. I am content that the proposed dwelling will lend itself well within the gap site of this otherwise substantial and continuously built up frontage of dwellings. Given this, I am content that the proposed complies with policy CTY 8 of PPS 21.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed is a two storey dwelling with an 8 metre ridge height from finished floor levels, which together with the design is in keeping with the road-side dwellings which the site lies behind. Finished materials include smooth coloured white render to the walls and black concrete tile roofing. The design is considered to be appropriate for the site and its locality. The proposed will not be a prominent feature in the environment, given its ridge height and profile which is similar to the dwellings that it nestles behind. The site is able to provide a suitable degree of enclosure for the dwelling. It is accepted that a number of the encroaching trees along the south eastern boundary will have to be removed to accommodate the dwelling, though a number of these trees are to be retained as per the site layout plan (02 Rev B). Given the level of enclosure and the retention of some of the trees, it is deemed that the site does not rely primarily on the use of new landscaping. I am content that the proposed blends with existing buildings around the site. The proposed complies with Policy CTY 13.

In terms of policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of this size and scale.

#### Recommendation

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application be granted planning permission subject to the below conditions.

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

Approve is recommended

#### Approval Conditions

Condition 1

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

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

**Condition 2**

The vehicular access including visibility splays 2.4 x 120 metres and a 120-metre forward sight distance, shall be provided in accordance with Drawing No. 02 Rev B uploaded to public access on 10/10/2023, prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

All landscaping comprised in the approved details of landscaping on Drawing No. 02 Rev B uploaded to public access on 10/10/2023, shall be carried out in the first planting season following the occupation of the development hereby approved.

Reason: To ensure the development integrates into the countryside.

**Condition 4**

The existing trees to be retained, as indicated on Drawing No. 02 Rev B uploaded to public access on 10/10/2023, shall be permanently retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Signature(s):** Benjamin Porter

**Date:** 25 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	1 June 2023
<b>Date First Advertised</b>	20 June 2023
<b>Date Last Advertised</b>	13 June 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  150 Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  138 Drumagarner Road Kilrea Londonderry BT51 5TN  The Owner / Occupier  143 Drumagarner Road Kilrea Londonderry BT51 5TN  The Owner / Occupier  139 Drumagarner Road Kilrea Londonderry BT51 5TN  The Owner / Occupier  146A Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  146C Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  148 Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  142 Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  146B Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  140 Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  146 Drumagarner Road Kilrea Londonderry BT51 5TW  The Owner / Occupier  138A Drumagarner Road Kilrea Londonderry BT51 5TN</p>	
<b>Date of Last Neighbour Notification</b>	12 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2002/0479/RM  Proposals: Dwelling  Decision: PG</p>	

Decision Date: 24-JUL-02

Ref: H/2001/0565/O

Proposals: Site for Dwelling

Decision: PG

Decision Date: 18-DEC-01

Ref: LA09/2017/0016/NMC

Proposals: Proposed in line movement of Structure IMP73 (2 metres) West of previously approved location.

Proposed in line movement of Structure IMP56 (1.5 metres) South West of previously approved location.

All alterations are contained within the land ownership boundaries of the landowners who requested the movements.

Decision: CG

Decision Date: 17-JAN-17

Ref: LA09/2017/0017/NMC

Proposals: Proposed in line movement of Structure IMP42 (11 metres) West of previously approved location.

Proposed in line movement of Structure IMP76 (3 metres) West of previously approved location.

Proposed in line movement of Structure IMP79 (30 metres) North to boundary hedge.

This will require a further movement to structures AM78 (10 metres) and AM81 (10 metres) to accommodate this new structure location.

All alterations are contained within the land ownership boundaries of the landowners who requested the movements.

Decision: CG

Decision Date: 17-JAN-17

Ref: LA09/2023/0126/F

Proposals: Proposed 2 storey side extension to dwelling

Decision: PG

Decision Date: 24-MAR-23

Ref: LA09/2023/0612/F

Proposals: Construction of two no of two storey detached dwelling houses

Decision:

Decision Date:

Ref: H/2004/0750/O

Proposals: Site of dwelling.

Decision:

Decision Date:

Ref: H/2005/0383/O

Proposals: Site of Bungalow

Decision: PG

Decision Date: 18-SEP-06

Ref: LA09/2017/1324/F

Proposals: New domestic shed for vintage cars and tractors.

Decision: PG

Decision Date: 28-NOV-17

Ref: H/2004/0278/F

Proposals: Alterations / Additions to house.

Decision: PG

Decision Date: 20-MAY-04

Ref: H/1993/0056

Proposals: BUILDERS STORE FOR CAR,LORRY AND TURF SUPPLIES

Decision: PR

Decision Date:

Ref: H/1980/0347

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1999/0485

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/2000/0207/RO

Proposals: Dwelling and garage

Decision: PG

Decision Date: 17-MAY-00

Ref: H/1991/0350

Proposals: BUNGALOW AND GARAGE

Decision: PG

Decision Date:

Ref: LA09/2017/0002/DC

Proposals: Discharge of conditions 11 and 12 on Planning Application LA09/2015/1294/

Decision: AL

Decision Date: 13-JAN-17

Ref: LA09/2015/0011/RM

Proposals: Proposed infill dwelling and garage

Decision: PG  
Decision Date: 30-SEP-15

Ref: H/2000/0039/F  
Proposals: 2 No Dwellings and Garages  
Decision: PG  
Decision Date: 19-MAY-00

Ref: H/2000/0518/O  
Proposals: Site for dwelling  
Decision: PG  
Decision Date: 18-SEP-00

Ref: H/1998/0443  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:

Ref: H/1999/0080  
Proposals: SITE OF DWELLING  
Decision: PG  
Decision Date:

Ref: H/1994/0065  
Proposals: SITE OF DWELLING  
Decision: WITHDR  
Decision Date:

Ref: H/2013/0018/O  
Proposals: Proposed infill site for dwelling and garage  
Decision: PG  
Decision Date: 30-AUG-13

Ref: LA09/2019/1573/O  
Proposals: Proposed site for dwelling and garage  
Decision: PG  
Decision Date: 20-MAY-20

Ref: LA09/2017/1229/F  
Proposals: Proposed retention of existing access (amended description)  
Decision: PG  
Decision Date: 05-DEC-17

Ref: H/2002/0605/O  
Proposals: Site of dwelling and garage.  
Decision: PR

Decision Date: 05-FEB-03

Ref: H/1989/0332

Proposals: SITE OF DWELLING

Decision: PR

Decision Date:

Ref: H/2004/1305/F

Proposals: Bungalow and Garage.

Decision: PG

Decision Date: 21-JAN-06

Ref: LA09/2017/0007/F

Proposals: Proposed 2 no. infill dwellings and garages

Decision: PG

Decision Date: 24-MAR-17

Ref: H/2003/1042/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 14-DEC-04

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx

NI Water - Multiple Units West-LA09-2023-0612-F.pdf

DFI Roads - Enniskillen Office-Full Resp.docx

### **Drawing Numbers and Title**

Proposed Plans      Plan Ref: 03 REV A

Proposed Plans      Plan Ref: 04 REV A

Site Location Plan   Plan Ref: 01

Site Layout or Block Plan   Plan Ref: 02

Proposed Plans      Plan Ref: 03

Proposed Elevations      Plan Ref: 04

Proposed Plans      Plan Ref: 05

Proposed Plans      Plan Ref: 06

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

Not Applicable







## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2023/0650/RM	<b>Target Date:</b> 25 September 2023
<b>Proposal:</b> Dwelling and detached garage	<b>Location:</b> Lands 85M SW of No 16 Megargy Road Magherafelt
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Declan Donnelly 41 Foxfield Park Magherafelt BT45 5FQ	<b>Agent Name and Address:</b> Healy McKeown Architects The Studio 11-13 Maghera Street Kilrea BT51 5QL
<b>Executive Summary:</b> <p>This RM application for a dwelling and detached garage is being presented to committee as one (1) objection has been received.</p> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 13 AND 14) and Building on Tradition- a Sustainable Design Guide for the Northern Ireland Countryside 2012. The proposal is not at conflict with any of the relevant policies. DFI Roads have been consulted and have raised no concerns.</p> <p>1 no. objection has been received to date. Issues raised include impact on wildlife from erection of proposed boundary post and wire fence, impact from package treatment plant. Members are advised that all material planning issues raised in these objections have been fully considered. The objections do not merit the refusal of this application. Approval is recommended with appropriate conditions and informatives attached to any decision.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Dfl Roads response dated 22/09/2023.
Statutory Consultee	DFI Roads - Enniskillen Office	RM Response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	RM Response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Dfl Roads response dated 19/7/2023 - duplicated.

### Representations:

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

### Summary of Issues

#### Representations

Two (2) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date, one third party representation has been

received from the occupants of number 18 Megargy Road.

### **Summary of Issues:**

1 objection was received on the 29/06/2023 and it raised the following concerns:

The proposed boundary of a post and wire fence with native species hedging will replace the existing (which belongs to no.18) and will result in loss of wildlife. It would appear that the objector has read the site layout incorrectly. The existing boundary with no. 18 will be unaffected. It is proposed to create a new boundary through the middle of the host field therefore there will be no loss of existing habitat.

Package treatment plant from dwelling discharging into waterway/pond. The proposed treatment plant will be subject to independent approval from NIEA.

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

The site is located approximately 0.8km west of the development limits of Magherafelt, wherein the site lies in the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 85M southwest of 16 Megargy Road, Magherafelt in which the red line covers a slightly sloped agricultural field that sits on the roadside. I note that the red line covers a portion of a much larger agricultural field. All boundaries are defined by a mix of mature hedging and trees where the intention is to create a post and wire fence with native species hedging. The proposed site is currently accessed via an existing agricultural field where to proposed seeks to create a new access onto the public road closer to the northeast boundary. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings.

### **Description of Proposal**

This is a Reserved Matters application for a dwelling and detached garage.

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

#### **Policy Consideration**

#### **Relevant Planning History**

Reference: LA09/2020/0909/O

Proposal: Proposed dwelling and garage on a farm

Location: 85M SW Of 16 Megargy Road, Magherafelt

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

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside
  - CTY 1: Development in the Countryside
  - CTY 13: Integration and Design of Buildings in the Countryside; and
  - CTY 14: Rural Character
- Building on Tradition- a Sustainable Design Guide for the Northern Ireland Countryside 2012

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities.

## **Mid Ulster District Council Draft Plan Strategy 2030**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

## **Planning Policy Statement 3 – Access, Movement and Parking Policy AMP 2 – Access to Public Roads**

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a

development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposed dwelling and garage will result in the construction of a new access onto a public road therefore, DFI Roads were consulted and provided no objection to the proposed subject to standard conditions.

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

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. The principle of development for this site has been established in the LA09/2020/0909/O approval. The proposed satisfies the outline conditions including the 7.5 metre ridge height restriction.

## **CTY 13: Integration and Design of Buildings in the Countryside**

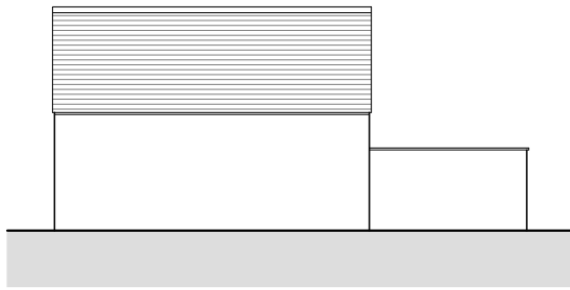
Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. The proposed is a two-storey modest-sized dwelling that is not a prominent feature in the environment. Existing screening along the western boundary is to be maintained and will provide a suitable degree of enclosure for the building to integrate into the landscape. New landscaping is also proposed in the form of a new post and wire fence with native species hedgerow to the northern, eastern and southern boundary. Finished materials include smooth painted render to alongside locally sourced natural stone to the walls and natural slate to the roof. I deem these materials to be acceptable and appropriate for the site and its locality. From this I am content that the application is able to comply with Policy CTY 13.

## **CTY 14- Rural Character**

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape. It is considered that the site and its environs are suitable for absorbing a dwelling of this size and scale. I am content that there is unlikely to be any adverse impact to the rural character of the area as such I am content that the application complies under CTY 14.

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application be granted planning permission.

Proposed garage elevations:



proposed north elevation 1:100



proposed south elevation 1:100

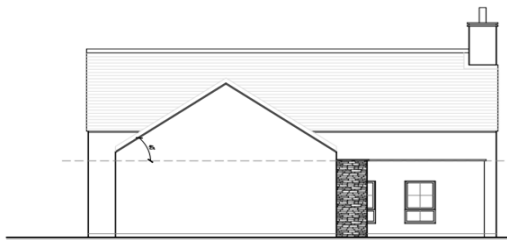
Proposed dwelling elevations:



proposed east elevation 1:100



proposed north elevation 1:100



**Other Considerations**

To the west of the proposed site lies 10m Watercourse Buffer and 1200 surface water flood extent, as the proposed dwelling and garage is mainly to the north of the property, I am content that it was not necessary to consult with rivers in this instance as the west of the property will remain unaffected by the proposal.

**Habitats Regulations Assessment**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc) Regulations (Northern

Ireland) 1995 (as amended). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

As required by Section 62 of the Planning Act (Northern Ireland) 2011 the development to which this approval relates must be begun by whichever is the later of the following dates:-

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

Reason: Time limit.

**Condition 2**

The vehicular access including visibility splays 2.4 x 60 metres and a 60-metre forward sight distance, shall be provided in accordance with Drawing No. 02 Rev 01 bearing the date stamp 07 Aug 2023 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

All landscaping comprised in the approved details of landscaping on stamped drawing No. 02 uploaded to Public Access on 12/06/2023 shall be carried out in the first planting season following the occupation of the dwelling hereby approved.

Reason: To ensure the development integrates into the countryside.

**Condition 4**

The existing mature trees and vegetation along the site boundaries as shown on drawing no. 02 rev 01 shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without prior consent in writing to the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given in writing at the earliest possible moment.

Reason: To ensure the maintenance of screening to the site.

**Signature(s):** Ciara Carson

**Date:** 17 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	12 June 2023
<b>Date First Advertised</b>	27 June 2023
<b>Date Last Advertised</b>	27 June 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 16 Megargy Road Magherafelt BT45 5HW The Owner / Occupier 18 Megargy Road Magherafelt BT45 5HW	
<b>Date of Last Neighbour Notification</b>	21 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2018/0647/F Proposals: New underground gas transmission pipeline (intermediate pressure) approximately 9km in length, both in-road/verge, with associated temporary site works, including open cut excavation and horizontal directional drilling for pipe installation, and temporary storage areas for pipes and soil Decision: PG Decision Date: 08-AUG-18</p> <p>Ref: LA09/2020/0909/O Proposals: Proposed dwelling and garage on a farm Decision: PG Decision Date: 26-NOV-20</p> <p>Ref: LA09/2023/0650/RM Proposals: Dwelling and detached garage (reserved matters) Decision: Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
<p>DFI Roads - Enniskillen Office-Dfl Roads response dated 22/09/2023. DFI Roads - Enniskillen Office-RM Response.docx</p>	

DFI Roads - Enniskillen Office-RM Response.docx  
DFI Roads - Enniskillen Office-Dfl Roads response dated 19/7/2023 - duplicated.

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Floor Plans Plan Ref: 03  
Proposed Floor Plans Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Proposed Elevations Plan Ref: 06  
Garage Plans Plan Ref: 07  
Site Location Plan Plan Ref: 01 rev 01  
Site Layout or Block Plan Plan Ref: 02 rev 01  
Proposed Elevations Plan Ref: 05 REV 01  
Proposed Elevations Plan Ref: 06 REV 01  
Garage Plans Plan Ref: 07 REV 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/0690/O	<b>Target Date:</b> 5 October 2023
<b>Proposal:</b> Proposed site for new dwelling in infill site	<b>Location:</b> Between 42 and 42A Tamnaskeeney Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Richard McAllister 12 Knockaleery Road Cookstown BT80 9EA	<b>Agent Name and Address:</b> Gibson Design & Build 23 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary:</b> <p>This proposal has been assessed under all relevant policy, such as the SPPS, Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy, PPS 3 and PPS21. It is my opinion that the proposal is not at conflict with any of the relevant policy tests. One objection has been received to date. Issues raised include impact on privacy and rural impact. Members are advised that all material planning issues raised in these objections have been fully considered and consultee advice sought if necessary. The objections do not merit the refusal of this application.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

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

### Summary of Issues

One letter of objection was submitted online. The concerns raised within the objection letter have been fully considered as part of this planning application. The main points have been summarised below.

- Privacy Concerns

- Rural Impact

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

The proposed site is located outside any defined settlement limits and as such is in the open countryside as defined in Cookstown Area Plan 2010. The site is identified as lands between 42 and 42A Tamnaskeeney Road, Cookstown, in which the red line covers a roadside site that is a portion of a much larger agricultural field. The immediate area is predominately agricultural in nature with a scattering of dwellings throughout.

### **Description of Proposal**

This is an outline application for a proposed site for a new dwelling in infill site.

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

#### **Policy Consideration**

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

In line with Statutory Neighbour Notification Procedures, five neighbouring properties were notified of this application. To date, there has been one letter of objection received in respect of the proposal.

The following policies will be considered in this assessment:

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- PPS 3 – Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities

#### **Mid Ulster District Council Draft Plan Strategy 2030**

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

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. DFI roads were consulted and, in their response, stated if the Council Planning decide to approve this application, the following conditions must be applied.

### **Planning Policy Statement 21: Sustainable Development in the Countryside**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. The application to be considered is for a dwelling and garage under the provisions of policy CTY 8 – Ribbon Development.

Policy CTY 8 states that “an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided these respects the existing development pattern along the frontage in terms of size, scale siting and plot size and meets other planning and environmental requirements”. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The gap as shown below between the dwellings at No.42 and 42a Tamnaskeeney Road is sufficient only to accommodate one dwelling. The dwelling at No.42 also has a outbuilding/shed which fronts onto the Tamnaskeeney Road and therefore can be counted as a building. For the purposed of this assessment, I am content that this can be deemed a substantial and built-up frontage.

It is also my opinion that given the size of the application site and the plot sizes along this section of the road, a dwelling at this proposed location would represent an acceptable infill opportunity that respects the adjacent plot sizes. The existing dwelling to the West (No. 42a) has a frontage of 90m, with the dwelling to the East (No. 42) having a frontage of 40m. The gap in between measures 42m which is suitable for one infill dwelling. The gap created by the host field is not of a size that represents any sort of visual break in this particular landscape.

Overall, I am content the proposal meets all the criteria in CTY 8.



Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I hold the opinion that an appropriately designed dwelling will not appear prominent in the landscape. Existing landscaping along the existing boundaries should be retained where possible and supplemented with additional landscaping to aid integration. Finally, I feel it would be necessary to restrict the ridge height to be no more than 6.5m above finished floor level given the surrounding development. No details about the design and materials of the garage have been provided and this will be considered at the reserved matters stage. From this I am content that the application is able to comply with CTY 13.

Policy CTY14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. An objector has raised concerns over the rural impact that this proposal may have on the adjacent area. With considering this concern, I am content that an appropriately designed dwelling will not appear prominent in the landscape wherein it will still be able to respect the pattern of development in the area. Furthermore, I am content on the balance that this proposed application will not unduly change the character of the area. Overall, I am satisfied that the proposed development complies with CTY 14 and I cannot attach any determining weight to the objectors concerns over rural impact.

## **Other considerations**

Another issue raised by the objector was concerns over the privacy concerns due to proximity from the proposed to the adjacent dwelling (No.42a). With a separation distance of approximately 34m and mature boundary vegetation, I cannot attach any determining weight to the objectors concerns over privacy of neighbouring residents.

## **Habitats Regulations Assessment**

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

## **Summary of Recommendation:**

Approve is recommended

## **Approval Conditions**

### **Condition 1**

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

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

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

### **Condition 2**

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

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

### **Condition 3**

The depth of the underbuilding between finished floor level and ground level shall not exceed 0.3m at any point.



Reason: In the interest of visual amenity.

**Condition 4**

The dwelling hereby permitted shall have a ridge height not exceeding 6.5 metres above existing ground level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal is in keeping with the character of the area.

**Condition 5**

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

Reason: To ensure the provision of a high standard of landscaping and in the interests of visual amenity.

**Signature(s):** Daniel O'Neill

**Date:** 26 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 June 2023
<b>Date First Advertised</b>	4 July 2023
<b>Date Last Advertised</b>	4 July 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  41 Tamnaskeeney Road Cookstown Tyrone BT80 9EQ  The Owner / Occupier  38 Tamnaskeeney Road Cookstown Tyrone BT80 9EQ  The Owner / Occupier  42A Tamnaskeeney Road Cookstown Tyrone BT80 9EQ  The Owner / Occupier  43 Tamnaskeeney Road Cookstown Tyrone BT80 9EQ  The Owner / Occupier  42 Tamnaskeeney Road Cookstown BT80 9EQ</p>	
<b>Date of Last Neighbour Notification</b>	4 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1978/030001  Proposals: REPLACEMENT BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: I/2003/1005/O  Proposals: Proposed dwelling and garage  Decision: PG  Decision Date: 15-JAN-04</p> <p>Ref: I/1992/4035  Proposals: Improvements to dwelling  Decision: PDNOAP  Decision Date:</p> <p>Ref: I/1978/0300</p>	

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2023/0690/O

Proposals: Proposed site for new dwelling in infill site

Decision:

Decision Date:

### **Summary of Consultee Responses**

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

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2023/0694/F	<b>Target Date:</b> 6 October 2023
<b>Proposal:</b> Proposed farm machinery/feed store with handling facilities (no animal housing)	<b>Location:</b> 140M SE of 49 Slate Quarry Road Pomeroy
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr John and Brian Lagan 31A Tullyreavy Road Rock Dungannon BT70 3JN	<b>Agent Name and Address:</b> Mrs Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b> <p>This application is being presented to the committee as an exception to policy. The proposal is for a farm shed located away from existing farm buildings and whilst the policy does allow for an alternative site away from existing farm buildings, only if there are no other sites available at another group of buildings. In this case, there are other sites available beside the existing group of buildings however the applicant is seeking this new building at an alternative site to allow for the efficient functioning of the building to provide storage on another part of the farm holding. Therefore, it is to be considered as an exception to policy as although it does comply with all other criteria within CTY 12 it fails the exceptionality test stated in the last paragraph of CTY 12.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Statutory Consultee	DAERA - Omagh	LA09-2023-0694-F.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits or

designations as per the Cookstown Area Plan. The red line of the application site is a rectangular piece of land located at the south eastern boundary of an existing larger agricultural field which extends north west towards the public road. The levels of the site rise while travelling along the existing access lane to the site, which has been levelled and at the time of the site visit a small portion of the site was used to store bales. There are existing boundaries to the south and west of the site with the remainder of the boundaries currently undefined. The surrounding area is mainly agricultural land uses with single dwellings located throughout the countryside.

### **Representations**

No third party representations have been received

### **Description of Proposal**

This is a full planning application for a proposed farm machinery/feed store with handling facilities (no animal housing)

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

#### **Policy Consideration**

Cookstown Area Plan 2010  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

- (a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;*
- (b) in terms of character and scale it is appropriate to its location;*
- (c) it visually integrates into the local landscape and additional landscaping is provided as necessary;*
- (d) it will not have an adverse impact on the natural or built heritage; and*
- (e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and*

*pollution.*

Firstly, DAERA were consulted and confirmed the farm business is active and established. With regards to criteria A, the agent provided a statement of case to demonstrate that the new building was necessary for the efficient use of the holding. In essence the argument put forward for the need for the building is that the lands around this site are used to graze cattle on the holding with the main holding located approximately 1.5 mile away, transporting cattle to and from the holding every time they needed vaccines or check-ups etc. The agent also states the building will be used to store machinery so that it can be used at this location and the surrounding fields. Following internal group discussions with the senior planner it was agreed that the case has been made by the agent and compliance with criteria A has been demonstrated.

With regards to criteria B, some initial concern was raised to the agent regarding this size and scale of the building specifically the height. However, the agent reduced the ridge height to 6.48m above finished floor level and given the existing backdrop of mature trees, I am content the building is appropriate for the rural location and will visually integrate into the landscape. Additional planting is shown on the plans and this will be conditioned to any approval in that it should be provided and retained.

I have no concern the proposal will have any adverse impact on the natural or built heritage and it is located a sufficient distance away from any third party residential buildings.

Policy CTY 12 states further that in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- *there are no suitable existing buildings on the holding or enterprise that can be used;*
- *the design and materials to be used are sympathetic to the locality and adjacent buildings; and*
- *the proposal is sited beside existing farm or forestry buildings.*

*It was agreed that given the case put forward justifying the need for the building at this location to run an efficient farm business, it is considered that the existing buildings on the farm cannot be used for this purpose.*

I am content with the design and materials used for the locality of the site.

The building is not sited beside existing farm buildings. The policy does however allow for a further exception where consideration may be given to an alternative site away from existing farm, provided there are no other sites available at another group of buildings on the holding, **and where:**

- it is essential for the efficient functioning of the business; or
- there are demonstrable health and safety reasons.

The issue here is there are other sites available surrounding the existing farm holdings but the need for the new farm building has been concerned acceptable at a location away from the existing farm holding to allow for the efficient functioning of the farm holding. As such, the proposal fails to meet this policy exception and cannot fully comply

with CTY 12 hence why it is being presented as an exception to policy. I am content that the proposal is essential for the efficient functioning of the business as it allows for the expansion of the farm holding.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I am content the proposal will integrate with existing boundaries being retained, allowing the building to blend with the landform and existing trees.

Policy CTY 14 states that Planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned, I am content the proposal will not be a prominent feature in the landscape. The proposal is using an existing laneway so this will have no impact on the surrounding area.

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

DfI Roads were consulted to ensure the access arrangements are acceptable and responded to confirm they had no objection to the proposal.

#### **Other Material Considerations**

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

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

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 building hereby approved shall only be used for the storage of agricultural machinery and feed and not for the housing of any livestock.



Reason: To prohibit a change to an unacceptable use and in the interest of neighbouring amenity.

**Condition 3**

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

Reason: To ensure the development integrates into the countryside.

**Condition 4**

If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Signature(s):** Ciaran Devlin

**Date:** 24 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 June 2023
<b>Date First Advertised</b>	4 July 2023
<b>Date Last Advertised</b>	4 July 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2023/0694/F Proposals: Proposed farm machinery/feed store with handling facilities (no animal housing) Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Roads Consultation full approval.docx Environmental Health Mid Ulster Council-Planning response.pdf DAERA - Omagh-LA09-2023-0694-F.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02 Proposed Plans Plan Ref: 03	

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2023/0703/O	<b>Target Date:</b> 10 October 2023
<b>Proposal:</b> Proposed replacement dwelling and garage	<b>Location:</b> 65M NW of 115 Aughrim Road Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Seamus O'Kane 17 Deerpark Road Bellaghy Magherafelt BT45 8LB	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b> <p>This application is brought to the Planning Committee with a recommendation for refusal. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.</p> <p>The proposal complies with Policies CTY 13 and CTY 14 of PPS 21 at this outline stage.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site of the proposed is located in the rural countryside approximately 2 miles east and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015. The site comprises a 0.5 hectare area agricultural field which sits north of a farm holding. The site slopes upwards from the bottom eastern boundary to the top western

boundary next to the private laneway. This 170m long laneway provides the access to the site from the main Aughrim Rd. Given the distance from the public road, the site cannot be seen from the Aughrim Road. Site boundaries consist of mature trees and hedgerow which line the northern and eastern field boundaries. A 2.5m line of hedging runs along the western boundary of the site. The southern boundary of the site consists of the perimeter curtilage of no. 115 Aughrim Rd which is the farm holding. With the exception of this southern boundary, the site is surrounded by agricultural fields. The wider surrounding environment consists mostly of agricultural fields and farm holdings with a low and spread out density.

### **Description of Proposal**

The proposed is an outline application for a replacement dwelling and garage.

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

#### **Policy Consideration**

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

#### **Relevant Histories**

None

#### **Representations**

To date no third party representations have been received.

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

The site of the proposed is located in the rural countryside approximately 2 miles east and outside of the Magherafelt settlement limit as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

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

The site is located adjacent to an enclosure located west of the site in another field. A consultation was made to HED and the proposal is assessed against PPS 6 in the main body of this report.

There are no issues pertaining to flooding at the site.

## Mid Ulster District Council Draft Plan Strategy 2030

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

## SPPS – Strategic Planning Policy Statement for Northern Ireland

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

## PPS 21 – Sustainable Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including replacement dwellings, subject to policy criteria within CTY3 - Replacement Dwellings being met.

Planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. The existing building on site has all four walls intact, though I am not convinced that it exhibits the essential characteristics of a dwelling. This appears to be an old farm outbuilding / stable building. The principle front elevation (southern elevation) has four entrances consisting of two stable doors and two large corrugated iron, hinge doors with large bolt locks. On the same elevation, there are two barred windows with glass panelling on the exterior. There was no chimney nor fireplace upon internal inspection. The agent has provided Griffith Valuation page extracts to demonstrate that the building in question was a dwelling at a time. However, upon review of this with the senior planner against the evidence on site, I am not content that a valid replacement opportunity exists because the building does not exhibit the essential characteristics of a dwelling. It is my view that the proposal fails to satisfy this criteria of Policy CTY 3.

The policy also asks that the proposed replacement dwelling be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it

could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. I note that this is only an outline application, though the red-lined site area indicates that the dwelling will be sited in the field to the north west of the existing farm yard area and therefore outside the curtilage of the existing building. This is acceptable in this case as the curtilage is quite restricted and it is deemed that the space left in the yard area is needed to manoeuvre farm vehicles. Given the application has failed to present a valid replacement opportunity I hold the view it fails under Policy CTY 3.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent and would be able to successfully integrate into the landscape. The application complies with Policy CTY 13 at this outline stage.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape and nor will it cause detrimental harm to the rural character of the area. The application complies with Policy CTY 14 at this outline stage.

#### PPS 3 – Access, Movement & Parking

This is a replacement dwelling application and the proposed access arrangements involve the use of an existing unaltered access to the public road and thus a consultation with DfI Roads was not deemed necessary. The proposed complies with Policy AMP 2 of PPS 3.

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

The site is located adjacent to an enclosure located west of the site in another field. A consultation was made to Historical Environment Division who upon reviewing the application and site area provided no objection to the proposal. It is taken that the proposal would not adversely affect this archaeological site and thus the proposed complies with Policy BH 2 of PPS 6.

#### Recommendation

Having assessed the application against the relevant policy and all other material considerations, I recommend that this application be refused on the grounds that it is contrary to Policy CTY 3 of PPS 21 in that it does not demonstrate a valid replacement dwelling case.

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



Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s):** Benjamin Porter

**Date:** 10 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	27 June 2023
<b>Date First Advertised</b>	11 July 2023
<b>Date Last Advertised</b>	11 July 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 116 Aughrim Road Castledawson Londonderry BT45 8HB The Owner / Occupier 111 Aughrim Road Magherafelt Londonderry BT45 6JZ The Owner / Occupier 117 Aughrim Road Castledawson Londonderry BT45 8HB The Owner / Occupier 115 Aughrim Road Castledawson Londonderry BT45 8HB	
<b>Date of Last Neighbour Notification</b>	30 June 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: H/1993/6068 Proposals: SITE OF DWELLING AUGHRIM ROAD MAGHERAFELT Decision: QL Decision Date:	
Ref: LA09/2023/0703/O Proposals: Proposed replacement dwelling and garage Decision: Decision Date:	
Ref: H/1990/0216 Proposals: SITE OF FARM BUNGALOW Decision: WITHDR Decision Date:	
Ref: H/1999/0168 Proposals: DWELLING(2 STOREY) & GARAGE Decision: PG	

Decision Date:

Ref: H/2000/0136/F

Proposals: Two storey dwelling and garage

Decision: PG

Decision Date: 22-SEP-00

Ref: H/1991/0468

Proposals: BUNGALOW

Decision: WITHDR

Decision Date:

Ref: H/1992/6089

Proposals: SUB-STATION MAIN STREET MAGHERA

Decision: QL

Decision Date:

Ref: H/2007/0793/O

Proposals: Proposed dwelling and garage.

Decision: PR

Decision Date: 22-SEP-10

Ref: H/2005/0589/O

Proposals: Site of Dwelling and Garage

Decision: PG

Decision Date: 01-APR-08

Ref: H/2011/0169/RM

Proposals: New single storey dwelling

Decision: PG

Decision Date: 16-MAY-11

Ref: H/2001/0117/F

Proposals: Extension to dwelling

Decision: PG

Decision Date: 21-MAR-01

Ref: H/1978/0229

Proposals: SITE OF RETIREMENT FARM DWELLING

Decision: PG

Decision Date:

Ref: H/1992/6110

Proposals: SITE OF DWELLING CUDDENS HILL DERRYGARVE RD  
CASTLEDAWSON MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/1992/6019

Proposals: SITE OF BUNGALOW DERRYGARVE ROAD CASTLEDAWSON

Decision: PRENC

Decision Date: 19-FEB-92

Ref: H/2004/0340/F

Proposals: Proposed replacement dwelling house and garage. (To supercede outline permission H/2003/0044/O).

Decision: PG

Decision Date: 04-MAY-05

Ref: H/2003/0044/O

Proposals: Site of Replacement Dwelling and Garage

Decision: PG

Decision Date: 20-MAR-03

Ref: H/2001/0778/F

Proposals: 11 K.V. Overhead Line.

Decision: PG

Decision Date: 11-OCT-01

Ref: H/1989/0149

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: H/1995/4014

Proposals: ALTS AND ADDS TO DWELLING

Decision: PDNOAP

Decision Date:

Ref: H/1991/6041

Proposals: SITE OF BUNGALOW AUGHIRM ROAD TOOMEBRIDGE

Decision: QL

Decision Date:

### **Summary of Consultee Responses**

Historic Environment Division (HED)-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2023/0704/O	<b>Target Date:</b> 11 October 2023
<b>Proposal:</b> Proposed dwelling & garage	<b>Location:</b> 40M NE of 74 Moneyhaw Road Drummullan Moneymore
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Keith Bell 24 Oaklea Road Ballyronan BT45 6NH	<b>Agent Name and Address:</b> Mrs Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road COOKSTOWN BT80 9LU
<b>Executive Summary:</b> <p>The application is being presented to the committee with the recommendation to approve as an exception to policy CTY 2a. The proposal meets all policy criteria except the cluster of development is not associated with a focal point. It is being presented as an exception to policy as although it does not fully meet the policy criteria, the site allows for a rounding off as there is development on two sides of the site, and the site benefits from strong existing screening which ensures a dwelling here will not impact on the rural character of the area. The site is located within the existing residential curtilage of No.74 Moneyhaw Road and although it is within the countryside, it appears when traveling along the public road that the development limits of the settlement limits have already expanded. As the site is within an already urban area, that being the existing residential curtilage of No.74, it is clearly part of rounding off, hence why the application is being recommended as an approval as an exception to policy. 3 neighboring properties were notified, no objections have been received. Dfl Roads were consulted and offered no objection.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside, located approximately 30m north of the settlement limits of Drummullan. The site is also located on a piece of land identified as

containing an important view of the open countryside as stated within the Cookstown Area Plan 2010. The red line of the application site is a corner site, with the Moneyhaw Road bounding the site to the west and the Drummullan Road bounding the site to the north. The site appears to be used as a private amenity space for the dwelling located immediately south and adjacent of the site identified as No. 74 Moneyhaw Road. The site is bounded on all sides by mature trees with views into the site currently very limited given the amount of screening. To the east of the site is a row of dwellings located within the countryside. The surrounding area is a mix with mainly agricultural land uses to the north and west of the site.

### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is an outline planning application for a proposed dwelling & garage.

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

#### **Policy Consideration**

Cookstown Area Plan 2010  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking

The Cookstown Area Plan identifies the site as north of the settlement limits of Drummullan within the open countryside. The site is identified as being located to the North of the village, where an important view of open countryside is identified from an elevated vantage point within the settlement limit. Development that would impact significantly on this view will not normally be permitted. I am content that an appropriately designed dwelling would be acceptable here the maintenance of the existing boundaries would ensure that the development here would not impact significantly on this view.

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



Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content there is a cluster of development within the area with 5 dwellings located, 4 to the east and 1 to the south all of which are located outside the settlement limits of Drummullan.

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

Whilst travelling south of the Moneyhaw Road and west of the Drummullan Road I am content that the cluster, especially to the east of the site appears as a visual entity. It is noted from some viewpoints given the strong mature trees along the site boundary the visual entity of the cluster can appear weak however, on balance it is acceptable.

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

The cluster is not associated with any established focal point and given this the proposal fails to comply with this policy criteria.

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

I am content that the site is bounded to the east and south by dwellings located within the open countryside and within the cluster.

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

I am content that the proposed dwelling can be absorbed into the existing cluster and it will not alter the existing character of the area.

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

I am satisfied that a dwelling at this location would not adversely impact on residential amenity. The agent provided a block plan to indicate how a dwelling would sit on the site to ensure adequate private amenity space is provided for the new dwelling and the existing dwelling located at No. 74 Moneyhaw Road.

Although the proposal does not fully meet the policy criteria listed above in that the cluster is not associated with a focal point, the site allows for a rounding off as there is development on two sides of the site which are within the existing cluster, and the site benefits from strong existing screening which ensures a dwelling here will not impact on the rural character of the area. For this reason, it is recommended that the application is considered as an exception to policy CTY 2a.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details have been submitted however, I am of the opinion that an appropriately designed dwelling with a ridge height of 6m above finished floor level and with the existing boundaries retained it will provide a suitable degree of integration and ensure it is not a prominent feature in the landscape. I am content ancillary works will integrate with their surroundings and an appropriately designed dwelling would blend with the landform and other natural features.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed building will not appear prominent in the landscape. I am content that this development can be viewed as part of an existing cluster and given the row of dwellings adjacent, a dwelling at this site would not change the character of the area given it is located within the existing residential curtilage of No.74 with dwellings to either side, it can be considered rounding off.

Policy CTY 15 states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. Although the site is located approximately 30m north of the settlement limits of Drummullan, there is a dwelling (No.74 Moneyhaw Road) located between the settlement limits and the application site. It appears whilst travelling along the Moneyhaw Road that No.74 is part of the Drummullan settlement. As this application is located on lands within the existing curtilage of No.74 it can already be considered urban land and can be considered rounding off. As well as the dwellings which already exist to the east of the site, I am content it will not mar the distinction between the settlement limits or result in urban sprawl.

### **Other Material Considerations**

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

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

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

**Condition 4**

The dwelling hereby permitted shall have a ridge height not exceeding 6 metres above existing ground level.

Reason: To ensure that the proposal is in keeping with the character of the area

**Condition 5**

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 attached form RS1.

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

and the convenience of road users.

**Condition 6**

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

Reason: To ensure the dwelling integrates into the countryside and to ensure the maintenance of screening of the site.

**Condition 7**

The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works.

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

**Signature(s):** Ciaran Devlin

**Date:** 25 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	28 June 2023
<b>Date First Advertised</b>	11 July 2023
<b>Date Last Advertised</b>	11 July 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 1 Drummullan Road Moneymore Londonderry BT45 7XS The Owner / Occupier 1A Drummullan Road Moneymore Londonderry BT45 7XS The Owner / Occupier 74 Moneyhaw Road Moneymore Londonderry BT45 7XR	
<b>Date of Last Neighbour Notification</b>	3 July 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1991/0401  Proposals: Replacement Dwelling  Decision: PG  Decision Date:</p> <p>Ref: I/2008/0313/O  Proposals: Proposed domestic dwelling &amp; garage with a restricted ridge height of 6 metres  Decision: PR  Decision Date: 20-JUL-10</p> <p>Ref: I/2012/0330/F  Proposals: Proposed change of house type from previously approved application I/2011/0021/F to provide single farm dwelling with attic conversion and a storey and a half detached garage  Decision: PG  Decision Date: 07-JAN-13</p> <p>Ref: I/2002/0327/F  Proposals: Replacement Dwelling</p>	

Decision:

Decision Date:

Ref: I/2003/0495/F

Proposals: Replacement dwelling

Decision: PG

Decision Date: 18-AUG-03

Ref: I/2002/0706/F

Proposals: Alterations and extension to existing dwelling

Decision: PG

Decision Date: 18-DEC-02

Ref: I/1990/6042

Proposals: Site for dwelling At junction of Drumullan Road/Moneyhaw Road Cookstown

Decision: QL

Decision Date:

Ref: I/1978/0261

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/2002/0832/O

Proposals: Proposed site for new bungalow

Decision: PR

Decision Date: 21-MAY-03

Ref: I/1991/0067

Proposals: Two storey Dwelling

Decision: PR

Decision Date:

Ref: I/1991/6025

Proposals: Proposed site for Dwelling Moneyhaw Road Drumullan

Decision: QL

Decision Date:

Ref: LA09/2023/0704/O

Proposals: Proposed dwelling & garage

Decision:

Decision Date:

Ref: I/2002/0316/O

Proposals: Site for bungalow and garage

Decision: PR

Decision Date: 14-OCT-02

Ref: I/2012/0144/PREAPP

Proposals: Gap site

Decision: ELR

Decision Date: 01-APR-14

Ref: LA09/2015/0053/F

Proposals: Proposed rural style dwelling on infill site South West of 1 Drummullan Road, Moneymore

Decision: PG

Decision Date: 30-JUN-15

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-DC Checklist 1.doc  
FORM RS1 STANDARD.doc  
Roads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2023/0735/RM	<b>Target Date:</b> 17 October 2023
<b>Proposal:</b> Site for dwelling on a farm	<b>Location:</b> 250M NE of 19 Derrylattinee Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Caolan Gildernew 10 Moolan Hill Cookstown BT80 8WP	<b>Agent Name and Address:</b> Colm Donaghy Chartered Architect 43 Dungannon Street Moy BT71 7SH
<b>Executive Summary:</b>  This application is being presented to Committee as the applicant is related to staff in the Council and an elected member. Approval is recommended.	



## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

This application is being presented to Committee as the applicant is related to staff in the Council and an elected member. Approval is recommended.

### Characteristics of the Site and Area

The site is located approximately 250m North East of No. 19 Derrylattinee Road, Dungannon and is located outside the designated settlement limits as defined in the Dungannon and South Tyrone Area Plan, 2010. The site is a roadside portion of an agricultural field. The elevations of the site rises gently from the Derrylattinee Road. There is a third party dwelling house located directly behind the site (No. 29). The boundaries of the site are comprised of mature hedgerows and vegetation with some mature trees along the southern and western boundary. The surrounding area is predominantly rural with scattered dwellings and farm holdings.

### **Description of Proposal**

This is a Reserved Matters application for a site for dwelling on a farm, the site is identified as approximately 250m North East of No. 19 Derrylattinee Road, Dungannon.

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

#### **Policy Consideration**

##### Consultations

DfI Roads were consulted and had no objection to the application, subject to the condition that it is constructed and maintained to that detailed on Drawing No. 02 dated 27/06/23, and also subject to other conditions and informatives.

##### Representations

Four Neighbour Notification letters were issued, however no representations were received in connection with this application.

##### Relevant Planning History

LA09/2022/1183/O - Site for dwelling on a farm, 250M North East Of 19 Derrylattinee Road Dungannon. Permission granted – 22.06.2023.

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

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

##### Strategic Planning Policy Statement (SPPS)

Dungannon and South Tyrone Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

PPS 21 – Sustainable Development in the Countryside

PPS 3 – Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

PPS 21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21. The principle of development has already been established on the site through the recent approval LA09/2022/1183/O. Upon review of the submitted plans I am content that all conditions have been met of the outline approval. From such the application must still comply under CTY 13 and 14 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. As the application has met the outline conditions, I am content that the dwelling will not appear as a prominent feature in the landscape. I am content that the dwelling will integrate into the landscape given the limited views of the site along with the existing landscaping and the proposed landscaping. Finally, in terms of the proposed design, I am content that this is acceptable within this rural context. From this I am content that the application complies with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As stated, I am content that the dwelling will not appear as a prominent feature in the landscape, and the proposed dwelling is unlikely to result in an adverse impact to the rural character of the area. On a whole I am content that the proposed development complies with CTY 14.

I have no ecological, flooding, or residential amenity concerns.

## Summary of Recommendation:

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

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

#### Condition 2

The vehicular access(es) including visibility splays of 2.4m x 60m in both directions and any forward sight distance shall be provided in accordance with Drawing No. 02 dated 27/06/23 prior to the commencement/occupation/operation of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### Condition 3

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

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

#### Condition 4

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

REASON: To ensure waiting vehicles do not encroach onto the carriageway.

#### Condition 5

All existing hedgerow and vegetation within the site shall be permanently retained, and no looping, felling or removal shall be carried out without the prior written approval of the

Council unless necessary to prevent danger to the public in which case a full explanation shall be given to Council in writing within one week of work being carried out.

REASON: To ensure the development integrates into the countryside.

**Condition 6**

All proposed landscape works shall be carried out in accordance with the approved details on Drawing No. 02 dated 27/06/23, and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

**Condition 7**

If within a period of 5 years from the date of occupation of the dwelling any 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.

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

**Date:** 9 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 July 2023
<b>Date First Advertised</b>	17 July 2023
<b>Date Last Advertised</b>	17 July 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 26 Derrylattinee Road Dungannon Tyrone BT70 1PR</p> <p>The Owner / Occupier 29 Derrylattinee Road Dungannon Tyrone BT70 1PR</p> <p>The Owner / Occupier RNN - 29B Derrylattinee Road Dungannon Tyrone BT70 1PR</p> <p>The Owner / Occupier RNN - 29A Derrylattinee Road Dungannon Tyrone BT70 1PR</p>	
<b>Date of Last Neighbour Notification</b>	29 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1999/0590/O Proposals: Proposed Dwelling Decision: PG Decision Date: 04-OCT-99</p> <p>Ref: M/1998/0029 Proposals: Erection of Dwelling Decision: PG Decision Date:</p> <p>Ref: M/1990/0530 Proposals: Extension and improvements to dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2023/0735/RM Proposals: Site for dwelling on a farm Decision:</p>	

Decision Date:

Ref: M/2001/0422/RM

Proposals: 1 and 3/4 Storey dwelling

Decision: PG

Decision Date: 03-JUL-01

Ref: M/1983/0154

Proposals: REPLACEMENT DWELLING

Decision: PG

Decision Date:

Ref: M/2006/0596/F

Proposals: Proposed Dwelling House & Domestic Garage

Decision: PG

Decision Date: 19-OCT-06

Ref: LA09/2022/1183/O

Proposals: Site for dwelling on a farm

Decision: PG

Decision Date: 22-JUN-23

Ref: M/1983/0210

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: M/2000/0661/O

Proposals: Site for 1 & 3/4 storey dwelling

Decision: PG

Decision Date: 26-JUL-00

### **Summary of Consultee Responses**

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

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Proposed Elevations Plan Ref: 04

Garage Plans Plan Ref: 05

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2023/0752/F	<b>Target Date:</b> 20 October 2023
<b>Proposal:</b> LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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'. Background and justification set out by transport consultants letter attached with application.	<b>Location:</b> 63B Anneeter Road Coagh Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Oliver Conlon 63b Anneeter Road Coagh Cookstown BT80 0HZ	<b>Agent Name and Address:</b> Les Ross Planning 14 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site, which lies outside any settlement defined under the Cookstown Area Plan 2010, is located in the rural countryside approx. 1 mile northeast of Moortown and just a short distance west of Lough Neagh and a Commercial Fishing Quay.



Fig 1: Site outlined red

The site is a relatively flat square shaped plot containing a detached dwelling and its

curtilage set back approx. 150 metres from and accessed off the Anneeter Road via an existing concrete lane serving 2 existing dwellings and the Fishing Quay to its east.

Whilst the site was approved for a dwelling and garage under previous planning applications LA09/2019/0344/O and LA09/2020/0318/RM, respectively, the pre commencement access arrangements of 2.4m x 45m, off the Anneeter Road, were not put in place as conditioned and are now the subject of this application.



Fig 2: Existing access off Anneeter Road viewed from north and south, respectively



Fig 3: Google image of access captured June 2023 from west.

Views of the existing access, which as can be seen above is paired with another access serving a no. of dwellings, are limited on both the northern and southern approach (see Fig 2, further above) until passing it due to its recessed nature, the mature trees/vegetation bounding it to the north and the mature roadside vegetation and development running to its north and south in the wider vicinity screen it.

The immediate area surrounding the site is rural in character, located on the shores of the Lough. However, it has come under considerable development pressure in recent times with a number of single dwellings with ancillary buildings and sheds clustered around the Fishing Quay to the east. This development extends southwest to a bend in the Anneeter Road and includes a Fish Processing Plant just 100m to the south west.

## **Description of Proposal**

This is a full planning application to change condition 2 of previous planning application LA09/2020/0318/RM which granted permission for a bungalow and garage on lands south of 63 Anneeter Road Coagh Cookstown on the 10<sup>th</sup> November 2020.

The approved dwelling has been constructed and occupied on site however the pre-commencement access arrangements (condition 2) have not been put in place as conditioned and the applicant is seeking their reduction.

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

### **Policy Consideration**

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

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

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Relevant Planning History**

- LA09/2019/0344/O - Proposed domestic bungalow with separate domestic garage to allow access for commercial fisherman to his places of work - Site adjacently south of 63 Anneeter Road Cookstown - Granted 5<sup>th</sup> June 2019
- LA09/2020/0318/RM - Proposed domestic bungalow with domestic garage - Site South Of 63 Anneeter Road Coagh Cookstown - Granted 10<sup>th</sup> November 2020
- LA09/2021/0205/CA - Alleged Breach of Condition 2 of planning permission LA09/2020/0318/RM (visibility splays not in place) - Enforcement Investigation Ongoing.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 3 objections were received:

- 1 from Mr & Mrs J McLernon the owners / occupiers of no. 65 Anneeter Road, the dwelling located immediately adjacent and north of the proposed access to the site off Anneeter Road.
- 1 from Mr & Mrs B Quinn the owners / occupiers of no. 59 Anneeter Road, the two-storey

dwelling located on lands immediately adjacent and south of the access.

- 1 from Mr J Quinn the owner / occupier of no. 59A Anneeter Road, a bungalow also located on lands immediately adjacent and south of the access. This bungalow sits just between the access and no. 59.

Mr & Mrs McLernon objected, as they had previously on the outline and reserved matters application on site, to the sight lines of the dwelling approved on site encroaching on their property; and that again the applicant had completed Certificate A of the application form stating that he is in actual possession of all lands connected with the application, which he is not. Mr & Mrs B Quinn and Mr J Quinn raised the same concerns that the sight lines encroached on their properties, that they did not give the applicant such permission, and that he should have completed Certificate C serving notice on relevant parties.

### Consultees

1. DFI Roads were consulted in relation to the access arrangements proposed and made the following comments for Planning to consider prior to decision, taking account of MRA Partnership consultant's report submitted in support of the proposal:
  - a. The site is accessed from an existing established laneway. MRA Partnership consultant's report demonstrated previous vehicular usage of this laneway once used as a fishing boat docking area has been significantly reduced.
  - b. Priority road speed is 20-25mph and vehicular movements are at a minimal rate per day as such DCAN 15's bracketed figure of 2m x 33m can be used, reduced from the 2.4m x 45m conditioned.
  - c. MRA Partnership consultant's report demonstrated that a site visit on the 18<sup>th</sup> May 2023 a sight visibility line of 2.4m x 24m was achievable.
  - d. DFI Roads site visit on the 10<sup>th</sup> October 2023 established a visibility line to the north approx. 20m. DCAN 15's minimal requirements are 2m x 33m the sight visibility line to the north is sub-standard.
  - e. Objections from adjacent landowner to north said the sight visibility line crosses, and would require a hedge and or fence to be set back to obtain the minimal sight visibility line to the north.

In conclusion DFI Roads advise whilst improvements have been made to the lane; it has been demonstrated vehicular movements have been significantly reduced, a reduction in the requirements of DCAN 15 to the minimum of 2m x 33m is reasonable from the 2.4m x 45m previously conditioned however achieving a 33m Y distance to the North may require 3<sup>rd</sup> party consent for any hedge or fence removal and or setback of same.

**Cookstown Area Plan 2010** - The site is located in the open countryside as defined by the Plan. Development in the countryside is controlled under the provisions of the Strategic Planning Policy Statement for Northern Ireland and Planning Policy Statement 21 Sustainable Development in the countryside.

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

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

PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. It highlights all proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. That access arrangements must be in accordance with the Departments published guidance.

### **Planning Policy Statement 3: Access, Movement and Parking**

Policy AMP 2 Access to Public Roads outlines planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where: a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes. The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors: the nature and scale of the development; the character of existing development; the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement; the location and number of existing accesses; and the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

As outlined previously this full planning application seeks to change condition 2 of previous planning application LA09/2020/0318/RM which granted permission for a bungalow and garage on lands south of 63 Anneeter Road Coagh Cookstown on the 10<sup>th</sup> November 2020.

The approved dwelling has been constructed and occupied on site however the pre-commencement access arrangements (condition 2) have not been put in place as conditioned and the applicant is seeking their reduction.

Condition 2 of LA09/2020/0318/RM was that:

- Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 45m and a 45m forward sight line, shall be provided in accordance with the details as set out on Drawing No.01a dated 20<sup>th</sup> August 2020. 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.

This application seeks to change condition 2, above, to:

- The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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.

Drawing 2318/A01 seeks to reduce the previously conditioned visibility splays to their current state, which as detailed in the main body of this report (see 'Planning Assessment of Policy and Other Material Considerations') is less than the 2m x 33m minimal requirements set out in DCAN 15.

MRA Partnership Consultant's submitted a report alongside and in support of this application to reduce the access arrangements conditioned under previous outline and reserved matters applications to serve the dwelling on site and highlighted the following key points:

- There is no intensification of the access to serve the dwelling approved on site. The access serving the dwelling accesses a quay on Lough Neagh that used to accommodate 10 boats per day but with a declining fishing industry now only 3. Now considerably less vehicles per day use the access.
- Intensive use of the access took place with poor visibility splays. A high, overgrown hedge with fence within limited the north splay to approx. 2.4m x 15.5m when the previous applications on site were assessed.
- No known collision history here despite theoretically low splays. Traffic speeds on road are low. Whilst it has a 60mph speed limit, approach speeds are estimated to be 25mph and 20mph from the south and north, respectively.
- DfI Roads under previous applications on site sought 2.4m x 45m site splays in both directions. These seemed high for an existing access on a slow road but were not challenged at the time for good reason. DfI Roads DC checklist detailed they were content the south splay was in place and the north splay would need the fence removed. There were no concerns the splays were undeliverable at this point. Subsequently a neighbour (Mr McLernon to the north) noted the required splay encroached on his garden and an amended P2 certificate of ownership was submitted to address this.
- The applicant implemented the access DfI Roads sought by removing the fence and hedge to the north delivering splay improvement but not full 2.4m x 45m sought. The north splay on the 18 May 2023 was 2.4 x 24m. PPS 3 AMP2 notes substandard existing accesses need to be improved. The fence removal substantially improved the splay from 2.4m x 15.5m. A splay of 2 x 26m was achieved also commensurate with the splay at the next access to the south satisfactorily serving a commercial fishing business.
- The improved north splay has since been diminished by a metal panel erected and protruding 600mm over the public verge and an adjacent hedge not being maintained.
- PPS3 recognises not always practicable to comply fully with appropriate visibility splays. The 2.4 x 45m splays sought are appropriate for a new access to 1000 vehicles per day onto a busy road (greater than 300 vehicles per day). This is not a new access but a long established, historically busier access. It will be exceptionally quiet and Anneeter Rd is not a busy, well below 3000 vehicles per day threshold in DCAN 15 allowing lesser splays.
- When measured against DCAN15 requirements the existing access of 2.4m x 24m to north is substandard, because the minimum is 2m x 33m. However, the access has been the access to a potentially busy quay, and the 2.4 x 15.5 m splays served this adequately. Planning policy seeks improvement, which has been delivered. Visibility from lane has been improved considerably by the applicant for all lane users. Improvement is the key requirement for existing accesses within in AMP2.
- There is an absence of harm – there is no known collision history, nor would any be expected because the splays have been improved and use of quay lane reduced despite construction of the additional dwelling on site. The applicant was already using the lane to access the quay. Now that he lives on the lane, he no longer needs to use the access to get to work. Indeed, were he to vacate the dwelling he would still be using the lane to travel to and from work.

Having taken account of MRA Partnership Consultant's report above in support of this application to reduce the access arrangements conditioned under the previous outline and

reserved matters applications on site to serve the dwelling already constructed and occupied on site; having taken account of the objection letters received (see 'Representations' further above); and having consulted with Dfl Roads (see 'Consultees' further above) I consider this proposal contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the minimum access requirements of 2m x 33m sight splays in both directions onto the public road, as per Dfl Roads advice, has not been provided in accordance with the standards contained in the Department's Development Control Advice Note 15. It cannot be demonstrated that there is no intensification of use of the access. Whilst the access may not be busy at present there is nothing to stop it being used in the future to access the Quay. The access splay to the north has not been achieved and cannot be achieved without encroachment onto neighbouring lands. The owner of the lands Mr & Mrs J McLernon advised they have not given permission for this. The applicant was made aware of the need to provide the conditioned visibility splays under the previous applications and the need for third party land before commencing the house. It is the applicant's responsibility to ensure that he controls all the lands necessary to carry out the proposed development. Whilst I note that there is no collision history and Dfl Roads accept that the splays conditioned could be reduced from 2.4m x 45m to the minimum specified in DCAN 15 of 2m x 33m in this instance these are not available and cannot be provided.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the minimum access requirements of 2m x 33m sight splays in both directions onto the public road has not been provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

**Signature(s):** Emma Richardson

**Date:** 26 October 2023



<b>ANNEX</b>	
<b>Date Valid</b>	7 July 2023
<b>Date First Advertised</b>	25 July 2023
<b>Date Last Advertised</b>	25 July 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  63 Anneeter Road Cookstown Tyrone BT80 0HZ  The Owner / Occupier  Fish Processing Plant Anneeter Road Cookstown Tyrone BT80 0HZ  The Owner / Occupier  65 Anneeter Road Cookstown Tyrone BT80 0HZ  The Owner / Occupier  59 Anneeter Road Cookstown Tyrone BT80 0HZ  The Owner / Occupier  63A Anneeter Road Cookstown Tyrone BT80 0HZ  The Owner / Occupier  59A Anneeter Road Cookstown Tyrone BT80 0HZ</p>	
<b>Date of Last Neighbour Notification</b>	14 July 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2006/0970/F  Proposals: Private Access Lane Lighting  Decision:  Decision Date:</p> <p>Ref: I/1985/0461  Proposals: ERECTION OF DOMESTIC GARAGE AND STORE  Decision: PG  Decision Date:</p> <p>Ref: LA09/2015/0318/F  Proposals: Alterations and Extension to rear of existing dwelling  Decision: PG</p>	

Decision Date: 16-SEP-15

Ref: I/2002/0299/F

Proposals: Proposed dwelling and domestic garage

Decision: PG

Decision Date: 29-AUG-02

Ref: I/1985/0265

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/2004/0083/O

Proposals: Site for Dwelling

Decision: PG

Decision Date: 16-APR-04

Ref: I/2006/1231/RM

Proposals: Domestic dwelling

Decision: PG

Decision Date: 10-MAY-07

Ref: LA09/2020/0318/RM

Proposals: Proposed domestic bungalow with domestic garage.

Decision: PG

Decision Date: 10-NOV-20

Ref: LA09/2023/0752/F

Proposals: LA09/2020/0318/RM Proposed domestic bungalow with domestic garage. Condition No. 2. Proposed to be changed to: 'The vehicular access shall be improved and maintained in accordance with drawing 2318/A01. 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'. Background and justification set out by transport consultants letter attached with application.

Decision:

Decision Date:

Ref: LA09/2019/0344/O

Proposals: Proposed domestic bungalow with separate domestic garage to allow access for commercial fisherman to his places of work.

Decision: PG

Decision Date: 05-JUN-19

Ref: I/1990/0158B

Proposals: Dwelling

Decision: PG  
Decision Date:

Ref: I/1980/0318  
Proposals: EXTENSION TO DWELLING  
Decision: PG  
Decision Date:

Ref: I/1990/0158  
Proposals: Dwelling  
Decision: PG  
Decision Date:

Ref: I/2002/0768/F  
Proposals: Domestic Double Garage  
Decision: PG  
Decision Date: 15-JAN-03

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation - RESPONSE.docx  
DFI Roads - Enniskillen Office-DC Checklist 1.doc  
DFI Roads - Enniskillen Office-

### **Drawing Numbers and Title**

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

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2023/0857/RM	<b>Target Date:</b> 28 November 2023
<b>Proposal:</b> Replacement dwelling & garage	<b>Location:</b> Approx 80M SE of 19 Shivey Road Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr John Causey 15 Lough Fea Road Cookstown BT80 9XJ	<b>Agent Name and Address:</b> Mr Henry Murray 37C Claggan Road Cookstown BT80 9XJ
<b>Executive Summary:</b> <p>This RM application for a dwelling and detached garage is being presented to committee as two (2) objections has been received.</p> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Cookstown Area Plan 2010, PPS3, PPS 21 (CTY 1, 13 AND 14) and Building on Tradition- a Sustainable Design Guide for the Northern Ireland Countryside 2012. The proposal is not at conflict with any of the relevant policies. DFI Roads have been consulted and have raised no concerns.</p> <p>2 no. objections have been received to date. Issues raised include the housing/postal address that the dwelling would be allocated by building control, and the impact of the traffic and movement of agricultural tractors and other associated farm vehicles to and from the nearby farm access. Members are advised that all material planning issues raised in these objections have been fully considered. The objections do not merit the refusal of this application. Approval is recommended with appropriate conditions and informatives attached to any decision.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Recon response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation full.docx

### Representations:

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

### Summary of Issues

#### Representations

Two (2) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date, two third party representation has been received from the occupants of number 18 Megargy Road.

Objection 1 was received on the 22/08/2023 and it raised the following concerns:

Issues raised include the housing address that the dwelling would be allocated by building control, no.19 Shivey Road have raised concerns over the postal address being linked to no.19 such as 19a, 19b and so forth. The issues raised have been fully considered however the issue does not reflect a material planning consideration therefore the representation does not merit the refusal of this application.

Objection 2 was received on the 05/10/2023 which raised the following concerns:

Issues raised primarily around access as shown on drawing 02 rev 01 there is an agricultural access adjacent to the proposed laneway access, objection received by No.17 Shivey Road stated 3 main points which include conflict between agricultural traffic, public traffic, and pedestrian movement. No.17 stated that the proposed development would impact negatively on existing turning movements and moreover that the proposed development and associated traffic would be hazardous to their farming business and existing safe working practices. The issues raised have been fully considered and as DFI Roads have considered the objection made however DFI Roads have no objection to the proposed access the issues raised do not merit the refusal of this application.

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

The site is in the rural countryside approximately 3.6 miles outside and south west of the Cookstown settlement limit as defined in the Cookstown Area Plan 2010. The site is accessed via the Shivey Road and the site itself is located 80m south east of no. 19 Shivey Road. The site consists of a 0.3 hectare area of land comprising of a small cluster of 3 outbuildings and an old and vacant dwelling. The site sits back 100m from the edge of the Shivey Road. The existing cluster of buildings dip down and are not largely visible from the Shivey Road. The surrounding landform is one of undulating countryside. The surrounding environment consists mostly of agricultural fields with a low and dispersed pattern of dwellings. The nearest neighbour to the site is no. 19 Shivey Road with no. 17 Shivey Road located 160m west of the application site. Site boundaries for the application site are marked by picket fencing, with a field hedge running the length of the 100m access to the cluster of outbuildings.

### **Description of Proposal**

This is a Reserved Matters application for a replacement dwelling and garage.

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

#### **Policy Consideration**

## **Relevant Planning History**

Reference: LA09/2022/1578/O

Proposal: Replacement Dwelling and Garage

Location: Approx 80M SE Of 19 Shivey Road, Cookstown

Decision and Date: Permission Granted 13.01.2023

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

- Cookstown Area Plan 2010
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
- Planning Policy Statement 3 – Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside
  - CTY 1: Development in the Countryside
  - CTY 13: Integration and Design of Buildings in the Countryside; and
  - CTY 14: Rural Character

## **Consideration of Evidence**

The principle of development has been established through the recent approval of LA09/2022/1578/O and I am content that this Reserved Matters proposal complies with all the conditions set down at outline stage, including the siting condition, demolition of the existing dwelling (note condition 3 of OPP states this is to be actioned prior to occupation of new dwelling), a plan indicating floor levels of the proposed dwelling and a detailed scheme of structured landscaping for the site including all site boundaries.

## **Cookstown Area Plan 2010**

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

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities.

## **Mid Ulster District Council Draft Plan Strategy 2030**

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

### **Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside**

The guide has been prepared to raise awareness of the importance of looking after the Northern Ireland countryside and how to achieve higher quality of sustainable development that will provide a basis to protect and enhance our rural assets. The guide will be used in accordance with all sustainable development in Northern Ireland countryside to understand the requirements of Planning Policy Statement 21. The document is used as a development management tool and will be used as a material consideration in the determination of planning applications for development proposals outside of settlement limits.

I am content that the proposed plans reflect the Building on Tradition guidelines for sustainable design in the countryside.

### **Planning Policy Statement 3 – Access, Movement and Parking Policy AMP 2 – Access to Public Roads**

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

DFI Roads were consulted and responded on this application and have confirmed that they have no objection to the proposal put forward subject to conditions. I consider the proposed access arrangements to be acceptable and in accordance with the provisions of PPS3 – Access, Movement and Parking.

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

As the principle of development has already been established, the matters reserved



under the OPP must now be considered. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. The principle of development for this site has been established in the LA09/2022/1578/O approval.

### **CTY 13: Integration and Design of Buildings in the Countryside**

CTY 13 of PPS21 – Integration and Design of Buildings states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

The dwelling as shown on drawing no.2 is to be replaced in line with condition 6 of the OPP. The proposed replacement dwelling is a considerable larger two storey dwelling with a 9.6 metre ridge height from finished floor levels however, given the undulating landform between the midpoint and Shivey Road and considering there is a strong existing screening and vegetation around the proposed site I am content that the dwelling will not be a prominent feature and can integrate into the surrounding landscape unobtrusively and will not be unjustifiably prominent.

The windows to the front elevation mostly have a vertical emphasis, same for on the side projection with a strong relationship of solid to void, I note that the rear projection has a mixture of vertical and horizontal windows. I consider the finishes of smooth plaster or dashed render to the walls with smooth plaster quoins and natural stone cladding to the front return are acceptable. Levels have been provided which shows the dwelling at a finished floor level of 94.80 with the finished ground level to 94.50. Overall, I am content the design of the building is a high quality design and is appropriate for the rural location which can be visually integrated into the surrounding countryside.

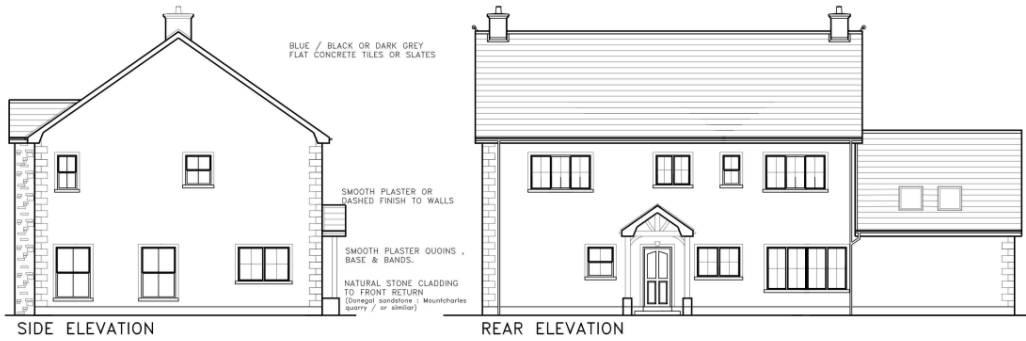
A landscaping plan has been provided which shows the existing mature boundaries retained and additional planting of a beech, ash, sycamore and spruce hedging to the north, north west and east of the sit. This will protect the privacy of proposed dwelling on all boundaries. There will be limited critical views of the site when travelling in both directions along the public road given the existing boundaries in place. The proposal therefore meets policy criteria contained within policy CTY13 of PPS21 and corresponds with condition 5 of LA09/2022/1578/O.

### **CTY 14- Rural Character**

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am already content that the building will not be a prominent feature in the landscape. It will not result in a suburban style build-up of development, and it respects the traditional pattern of settlement in the area. It will not create or add to a ribbon of development. The impact of ancillary works will not damage the rural character of the area. It was assessed at outline stage that a dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

Having carried out an assessment of the planning policy and other material considerations pertaining to this proposal, I recommend that this application be granted planning permission.

Proposed Elevations:



SIDE ELEVATION

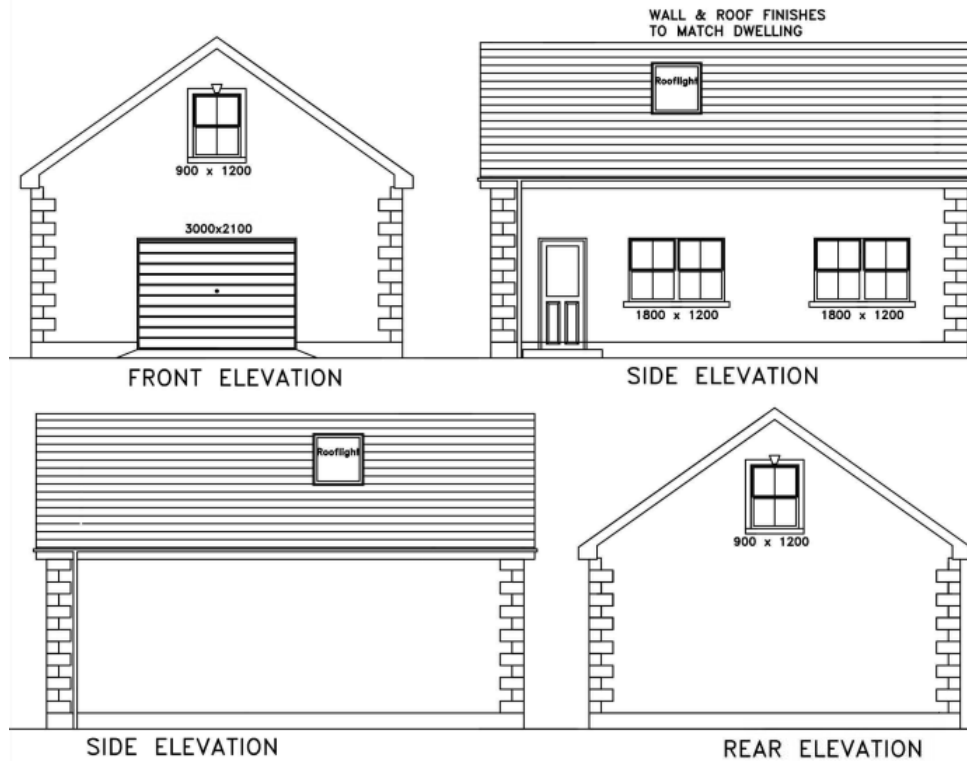
REAR ELEVATION



FRONT ELEVATION (towards South East)

SIDE ELEVATION

Proposed Garage:



FRONT ELEVATION

SIDE ELEVATION

SIDE ELEVATION

REAR ELEVATION

Habitats Regulations Assessment

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

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

The vehicular access(es) including visibility splays of 2.4m x 45m in both directions and a forward sight distance of 45m shall be provided in accordance with drawing no. 02 REV 01 uploaded on public access on 03/10/2023 prior to the commencement/occupation/operation of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

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

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

**Condition 4**

Gates or security barriers at the access shall be located at a distance from the edge of the public road that will allow the largest expected vehicle to stop clear of the public road when the gates or barriers are closed.

REASON: To ensure waiting vehicles do not encroach onto the carriageway.

Condition 5

All landscaping comprised in the approved details of landscaping on stamped drawing No. 02 REV 01 uploaded to Public Access on 03/10/2023 shall be carried out in the first planting season following the occupation of the dwelling hereby approved.

Reason: To ensure the development integrates into the countryside.

Condition 6

The existing mature trees and vegetation along the site boundaries as shown on drawing no. 02 rev 01 shall be retained except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without prior consent in writing to the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given in writing at the earliest possible moment.

Reason: To ensure the maintenance of screening to the site.

**Signature(s):** Ciara Carson

**Date:** 17 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	15 August 2023
<b>Date First Advertised</b>	29 August 2023
<b>Date Last Advertised</b>	29 August 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 19 Shivey Road Cookstown Tyrone BT70 3JQ The Owner / Occupier 17 Shivey Road Cookstown BT70 3JQ	
<b>Date of Last Neighbour Notification</b>	10 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1976/0337 Proposals: 11KV O/H LINE Decision: PG Decision Date:</p> <p>Ref: I/2007/0793/RM Proposals: Proposed Dwelling and domestic Garage Decision: PG Decision Date: 18-FEB-08</p> <p>Ref: I/2004/1441/O Proposals: Construct a dwelling Decision: PG Decision Date: 08-JUN-05</p> <p>Ref: I/2008/0078/F Proposals: Overhead single phase line (11kv) on wooden poles Decision: PG Decision Date: 07-JUL-08</p> <p>Ref: LA09/2023/0857/RM Proposals: Replacement dwelling &amp; garage</p>	

Decision:  
Decision Date:

Ref: LA09/2022/1578/O  
Proposals: REPLACEMENT DWELLING & GARAGE  
Decision: PG  
Decision Date: 13-JAN-23

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads Consultation - Recon response.docx  
DFI Roads - Enniskillen Office-Roads Consultation full.docx

**Drawing Numbers and Title**

Site Layout or Block Plan Plan Ref: 02 REV 1  
Proposed Plans Plan Ref: 03 REV 1  
Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Proposed Plans Plan Ref: 03  
Garage Plans Plan Ref: 04

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 November 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2023/0878/F	<b>Target Date:</b> 4 December 2023
<b>Proposal:</b> Proposed alterations and extension to existing dwelling and new shed for hobby room and garden store purposes at 5 Page's Lane, Draperstown. Co. Derry. BT45 7DP	<b>Location:</b> 5 Page's Lane Draperstown
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Bosco Tohill 5 Pages Lane Draperstown Magherafelt BT45 7DP	<b>Agent Name and Address:</b> OJQ Architects 89 Main Street Garvagh Coleraine BT51 5AB
<b>Executive Summary:</b>  This proposal has been assessed under all relevant policy, namely the SPPS, the Magherafelt Area Plan 2015 and Addendum to Planning Policy Statement 7: Residential Extensions and Alterations. It is my opinion that the proposal is not at conflict with any of the relevant policy tests. No objections have been received to date regarding this application but is presented to the committee as the applicant is a relative of a council employee. An approval is recommended along with appropriate conditions.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the development limits of of Draperstown in accordance with Magherafelt Area Plan 2015. The proposed site forms part of a small housing scheme where a detached two storey dwelling with a garage is situated. Holistically the boundaries are made up of a combination of mixed fencing and mature vegetation. The site is located on the edge of the settlement limit, the predominant land use in the



surrounding area is mainly residential build up, although agricultural land uses is located North and West of the site.

### **Description of Proposal**

This is a full application for a proposed alterations and extension to existing dwelling and new shed for hobby room and garden store purposes at 5 Page's Lane, Draperstown.

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

#### **Policy Consideration**

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

In line with Statutory Neighbour Notification Procedures, five neighbouring properties were notified of this application. To date, there have been no letters of objections received in respect of the proposal.

The following policies will be considered in this assessment:

- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities.

#### **Mid Ulster District Council Draft Plan Strategy 2030**

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

## Addendum to Planning Policy Statement 7: Residential Extensions and Alterations

Policy EXT1 of Addendum to PPS7: Residential Extensions and Alterations states that planning permission will be granted for the proposal to extend or alter a residential property where all the following criteria are met:

- (a) Deals with scale, massing, design, and external materials, upon evaluation of the submitted plans shown below, the proposed alterations and extension to existing dwelling and new shed. The proposed will stand subordinate to the existing dwelling in scale and massing. Additionally, the drawing supports that the overall finishes will complement that of the existing dwelling and the surrounding environment. I am content that the proposed conversion is satisfactory as it will not detract from the existing dwelling and the surrounding area.



- (b) With regards to the proposed, I note, there will be extra glazing added which on looks the face of the site and side elevation but will not affect privacy or amenity of adjacent residents. Additionally, I am satisfied that there will be no issue pertaining to overshadowing due to the separation distance (approximately 30m) to the nearest dwelling. Holistically, I am content that the proposed will not affect the privacy or amenity of neighbouring residents.
- (c) Considering, unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality. This proposal will not cause loss of trees or landscape features.
- (d) With the proposed alterations and extension to existing dwelling and new shed, I note that part of the side and rear amenity space will be removed to facilitate this proposal. Overall, I am content that there will be sufficient space within the curtilage for recreational and domestic purposes where parking arrangements remain unaffected.

Having assessed the proposed alterations and extension to existing dwelling and new shed, I am content that this proposal complies with Policy EXT1 of Addendum to PPS7: Residential extension and Alterations.

### **Other Considerations**

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

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

**Signature(s):** Daniel O'Neill

**Date:** 20 October 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 August 2023
<b>Date First Advertised</b>	5 September 2023
<b>Date Last Advertised</b>	5 September 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 11 Page'S Lane Draperstown Londonderry BT45 7DP The Owner / Occupier 7 Page'S Lane Draperstown Londonderry BT45 7DP The Owner / Occupier 9 Page'S Lane Draperstown Londonderry BT45 7DP The Owner / Occupier 1 Page'S Lane Draperstown Londonderry BT45 7DP The Owner / Occupier 3 Page'S Lane Draperstown Londonderry BT45 7DP	
<b>Date of Last Neighbour Notification</b>	20 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  -	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable





Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1056/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, BT75 0TE in substitution to previous 3m wide shared foot and cycle path approved under M/2008/0501/F.	<b>Location:</b> Proposed Additional Vehicular Access To The Olde Fairways Residential Development Adjacent To 90 Colebrooke Road Fivemiletown BT75 0TE.
<b>Applicant Name and Address:</b> Rahoran Limited C/O 103 Main Street Fivemiletown BT75 0PG	<b>Agent Name and Address:</b> Neil Irvine Design Limited Unit 5 Buttermarket 132 Main Street Fivemiletown BT75 0PW
<b>Summary of Issues:</b>  This application involves the loss of an area approved as open space and it is intensifying the use of an existing access onto a protected route where the number of new accesses and the intensification of the use of accesses are severely restricted. In this case the proposal for an additional access to this large housing site will be designed to the appropriate standard and by sharing the volume of traffic for this 274 unit housing development, will reduce traffic noise and related nuisance at the existing entrance thereby improving the quality for these residents.	

**Summary of Consultee Responses:**

DFI Roads - 4.5m x 120.0m sight lines to be provided and the scheme to be built to Private Streets Standards.

**Characteristics of the Site and Area:**

This site is located within the development limit of Fivemiletown and incorporates No. 90 Colebrook Road and an existing strip of land located between No. 90 and 88 Colebrook Road and to the east of 12 and 14 The Olde Firways.

No. 90 is a generous plot with a detached single storey dwelling and double garage with sizable front and rear garden areas. A ranch style 3 rail timber fence defines the roadside boundary, with a 2m close boarded timber fence defining the remaining boundaries.

The grass strip shares part of its NE boundary with No. 88 and is defined by a 'D' Rail fence, close boarded fence and leylandii hedgerow. The SW boundary of the grass strip is shared with the curtilage boundaries of No. 90 and No. 12 and 14 The Olde Firways. The remaining boundaries are not defined with the SE and NE being open to agricultural land.

This site is located approx. 110m NE from the existing approved and built vehicular access to The Olde Firways.

Properties along Colebrook Road respect a common building line and are a mix of detached single and two storey dwellings with individual access onto a protected route within settlement limits, with the Olde Firways development located to the south. Densities are greater in the Olde Firways which is a mix of detached and semi-detached 2 storey dwellings.

**Description of Proposal**

This is a full planning application for an additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, BT75 0TE. This is to substitute previous 3m wide shared foot and cycle path approved under M/2008/0501/F.

**Deferred Consideration:**

This application was before the Planning Committee in December 2018 where it was deferred for the developer to submit further information for consideration.

Since the meeting in December 2018 the applicant has been in continuous consultation with DFI Roads to agree a safe and acceptable design for this access as it is onto a protected route within a settlement limit.. Members will be aware that new accesses and intensification of use of existing accesses on to Protected Routes are limited by policy as it is desirable to promote free flowing traffic along these routes and a proliferation of access points would hinder this. Policy AMP3 in PPS3 allows a new access or intensification of use of an existing access on to a Protected Route in this location if it can be demonstrated the nature and level of access will significantly assist in the creation of a quality residential environment without compromising standards of road safety or result in a proliferation of access points. In this case the proposal involves relocating the access to No 90 and



upgrading it to an acceptable standard for DFI Roads specification. This is not, in my opinion adding to the number of access points onto the Protected Route, it is however intensifying the use of an access point. I can advise DFI Roads have now agreed an acceptable access design and offered conditions about private streets determination and this deal with one aspect of AMP3.

In respect of the quality residential environment, I can advise members there are 274 residential units approved in this housing development, at the moment all traffic within the site must use one access onto the road. There were plans passed for linkages through an adjacent site which has another access closer to the village centre access Coolebrook Road, however this does not appear to have commenced on the ground. While the housing roads were design to accommodate this amount of traffic, the houses at the front part of this site will have all the noise of the traffic passing by them on a constant basis. To allow the traffic to be split will, in my opinion improve the quality for the residents of these houses. Members may also consider the overall benefit to allowing an additional access to be created as this will ensure, in the event of any blockages at the entrance, access is still available to the 274 residential units in this development.

As DFI Roads are not concerned about the safety of the access and there are clear benefits to the quality of the housing development recommend this application is approved

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 visibility splays of 4.5 metres by 120.0 metres at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 04/7 received 17 October 2023, prior to the commencement of any other works or other development. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

The Department has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 04/7 received 17 October 2023.

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

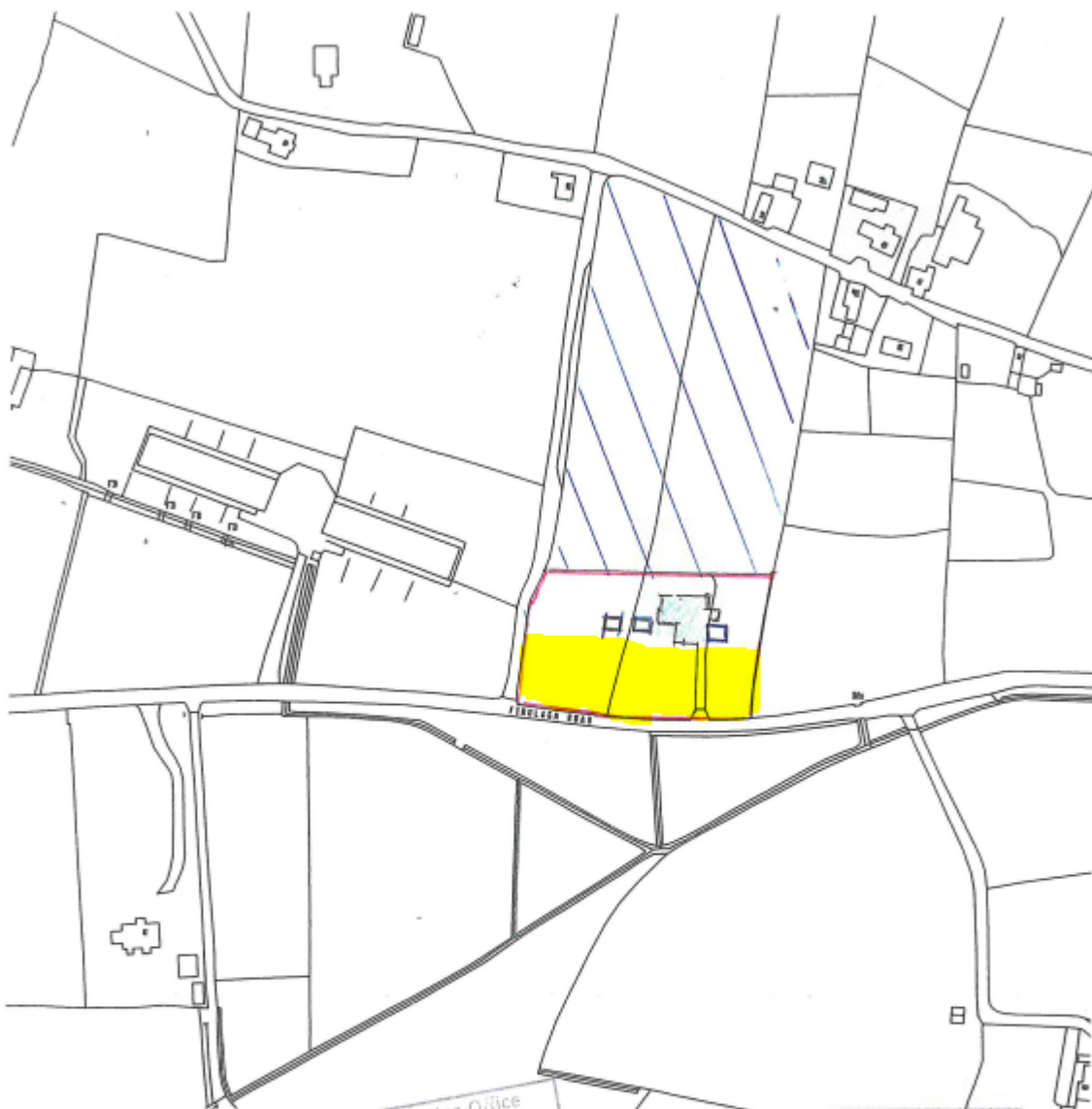
PSD02. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

The access road hereby permitted shall not become operational until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 04/7 received 17 October 2023. The Department has attached to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

**Signature(s)**

**Date:**



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

Mid Ulster District Council  
Drawing  
Number. 01

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

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



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 4th December 2018	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1056/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, BT75 0TE in substitution to previous 3m wide shared foot and cycle path approved under M/2008/0501/F.	<b>Location:</b> Proposed additional vehicular access to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road Fivemiletown BT75 0TE.
<b>Referral Route: Recommendation to refuse</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Rahoran Limited C/O 103 Main Street Fivemiletown BT75 0PG	<b>Agent Name and Address:</b> Neil Irvine Design Limited Unit 5 Buttermarket 132 Main Street Fivemiletown BT75 0PW
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Description of proposal

This is a full planning application for an additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrook Road, Fivemiletown, BT75 0TE. This is to substitute previous 3m wide shared foot and cycle path approved under M/2008/0501/F.

#### Characteristics of Site and Area

This site is located within the development limit of Fivemiletown and incorporates No. 90 Colebrook Road and an existing strip of land located between No. 90 and 88 Colebrook Road and to the east of 12 and 14 The Olde Firways.

No. 90 is a generous plot with a detached single storey dwelling and double garage with sizable front and rear garden areas. A ranch style 3 rail timber fence defines the roadside boundary, with a 2m close boarded timber fence defining the remaining boundaries.

The grass strip shares part of its NE boundary with No. 88 and is defined by a 'D' Rail fence, close boarded fence and leylandii hedgerow. The SW boundary of the grass strip is shared with the curtilage boundaries of No. 90 and No. 12 and 14 The Olde Firways. The remaining boundaries are not defined with the SE and NE being open to agricultural land.

This site is located approx. 110m NE from the existing approved and built vehicular access to The Olde Firways.

Properties along Colebrook Road respect a common building line and are a mix of detached single and two storey dwellings with individual access onto a protected route within settlement limits, with the Olde Firways development located to the south. Densities are greater in the Olde Firways which is a mix of detached and semi-detached 2 storey dwellings.

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

### **Area Plan**

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Fivemiletown on land zoned as an area of constraint on mineral developments. Access is onto a protected route. The policy provisions of Strategic Planning Policy Statement (SPPS) and PPS3 Access, Movement and Parking apply.

### **3rd party representations**

No representations have been received.

### **Relevant Planning History**

M/2008/0501/F- Proposed residential housing development consisting of 19 detached houses, 1 block of 3 apartments, 2 blocks of 6 apartments, 1 block of 4 apartments, 1 block of 24 apartments, 110 semi-detached houses and 102 townhouses ( Total 274) on lands to the rear of No 50-92 Colebrook Road and "The Olde Fairways", Colebrook Road, Fivemiletown, entrance via "The Olde Fairways" for Tullyherron Development Ltd. Permission was granted 22.09.2011.

### **Consideration**

This proposal is to replace an area of proposed open space which was granted permission under M/2008/0501/F with a new vehicular access road, associated footways and right hand turning lane on Colebrook Road. The proposed area of open space granted under M/2008/0501/F incorporated a cycle/walkway between No.s 88 and 90 Colebrook Road flanked on both sides by green area and provided a link into to the proposed development from Colebrook Road, measuring approx 0.1ha.

The subject site incorporates the proposed area of open space (granted by the 2008 permission and site No. 90 Colebrook Road. No reason for this access position has been proffered by the agent. I sent an e-mail on 13.09.2018 seeking justification for this proposed vehicular access given that a perfectly good and usable access point was granted under the 2008 application. I phone the agent on 17.10.18 for an update on the required information and said he would forward something within 3 weeks. Nothing has been received to progress this planning application.

PPS3 Access, Movement and Parking policy AMP3- Access to Protected Routes states that planning permission will only be granted for a proposal involving residential development where it is demonstrated that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points. It is clear that there is an existing safe access in place that can serve this development which is just over 100m from the proposed new access position. No clear reason has been provided as to why the new access is required. In my view this will lead to an unacceptable proliferation of access points onto Colebrook Road and should be refused.

There is insufficient information to demonstrate that a safe and satisfactory access, including right hand turning lane, can be provided for under this application and additional information required by DfI Roads to make a full and proper assessment has not been provided. The proposal is also contrary to Policy AMP2 Access to Public Roads in that it has not been

demonstrated that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

An area of open space is also being removed as part of a previous permission M/2008/0501/F. It has not been demonstrated by the applicant/agent if this will impact on the overall open space development for the wider permission, and, should this be allowed then a poor precedent for other developments may be set in terms of allowing an alternative use for areas of open space. The applicant/agent has to provide information to show existing provision and how removal of this area will impact on the wider development. The proposal is contrary to PPS7 Quality Residential Environments and PPS8 Open Space, Sport and Outdoor Recreation.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That planning permission be refused for the following reasons;

**Refusal Reasons**

1. The proposal is contrary to PPS7 Quality Residential Environments policy QD1 part (c) and PPS8 Open Space, Sport and Outdoor Recreation Policy OS2 in that the proposal will result in the loss of area of open space and insufficient information has been provided to demonstrate that sufficient open space has been provided in the wider permission M/2008/0501/F.

2. The proposal is contrary to PPS3 Access, Movement and Parking policies AMP2 and AMP3 in that it would result in an unacceptable proliferation of access points along a protected route and there is insufficient information to demonstrate that a safe and satisfactory access can be achieved onto the public road.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd August 2018
<b>Date First Advertised</b>	16th August 2018
<b>Date Last Advertised</b>	
<p><b>Details of Neighbour Notification</b> (all addresses)</p> <p>The Owner/Occupier, 10 The Olde Fairways Fivemiletown Tyrone</p> <p>The Owner/Occupier, 11 The Olde Fairways Fivemiletown Tyrone</p> <p>The Owner/Occupier, 12 The Olde Fairways Fivemiletown Tyrone</p> <p>The Owner/Occupier, 14 The Olde Fairways Fivemiletown Tyrone</p> <p>The Owner/Occupier, 15 The Olde Fairways, Fivemiletown, Tyrone, BT75 0SD,</p> <p>The Owner/Occupier, 88 Colebrook Road Fivemiletown Tyrone</p> <p>The Owner/Occupier, 9 The Olde Fairways, Fivemiletown, Tyrone, BT75 0SD,</p> <p>The Owner/Occupier, 90 Colebrook Road, Fivemiletown, Tyrone, BT75 0SA,</p> <p>The Owner/Occupier, 92 Colebrook Road Fivemiletown Tyrone</p>	
<b>Date of Last Neighbour Notification</b>	14th August 2018





Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Further Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0729/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed site for 5 no detached dwellings and garages (inclusion of footpath along public road) (additional plans received re footpath provision)	<b>Location:</b> 40m West of 16 Annaghmore Road Coalisland
<b>Applicant Name and Address:</b> Mr Conor Tennyson 39 Cloghog Road Coalisland BT71 5EH	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Summary of Issues:</b>  This application was before the Committee in October 2023 with a recommendation to approve. Following the meeting it was discovered that an error had occurred which resulted in the objection received on 13 September 2023 being uploaded against a different application on the planning portal and was not viewable against this application. Members are advised the objection was referred to in the previous report, however the application has been brought back to ensure members are aware of all the issues before reaching a decision on this application.	
<b>Summary of Consultee Responses:</b> 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**

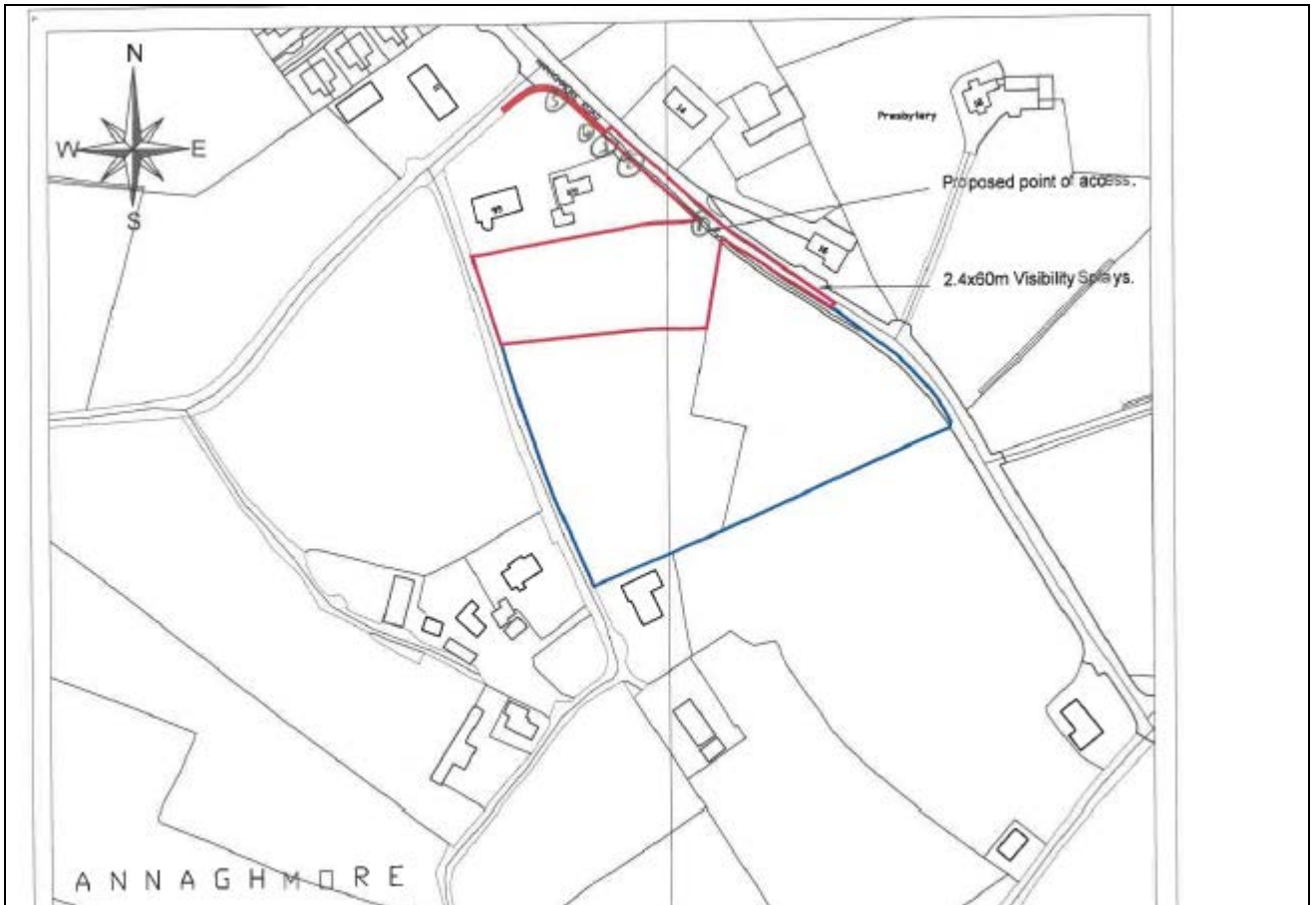
This is a full planning application for 5 no detached dwellings and garages with the inclusion of a footpath along public road.

**Deferred Consideration:**

This application was before the Planning Committee as an approval in June 2022 and where it was deferred for meetings with the objectors and the applicant to discuss the issues raised by the objectors and October 2023 where it was . Meetings were held on 16<sup>th</sup> 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

The measurements taken on site do not match the drawings, however it is not unusual for some on site modifications or discrepancies in these types of drawings. Generally the plans do show where the development is going and DFI Roads have not raised any concerns about the dimensions. The other issues have been addressed further in the report.



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 16<sup>th</sup> 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:**



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0729/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed site for 5 no detached dwellings and garages (inclusion of footpath along public road) (additional plans received re footpath provision)	<b>Location:</b> 40m West of 16 Annaghmore Road Coalisland
<b>Applicant Name and Address:</b> Mr Conor Tennyson 39 Cloghog Road Coalisland BT71 5EH	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Summary of Issues:</b>  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.	
<b>Summary of Consultee Responses:</b> 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.

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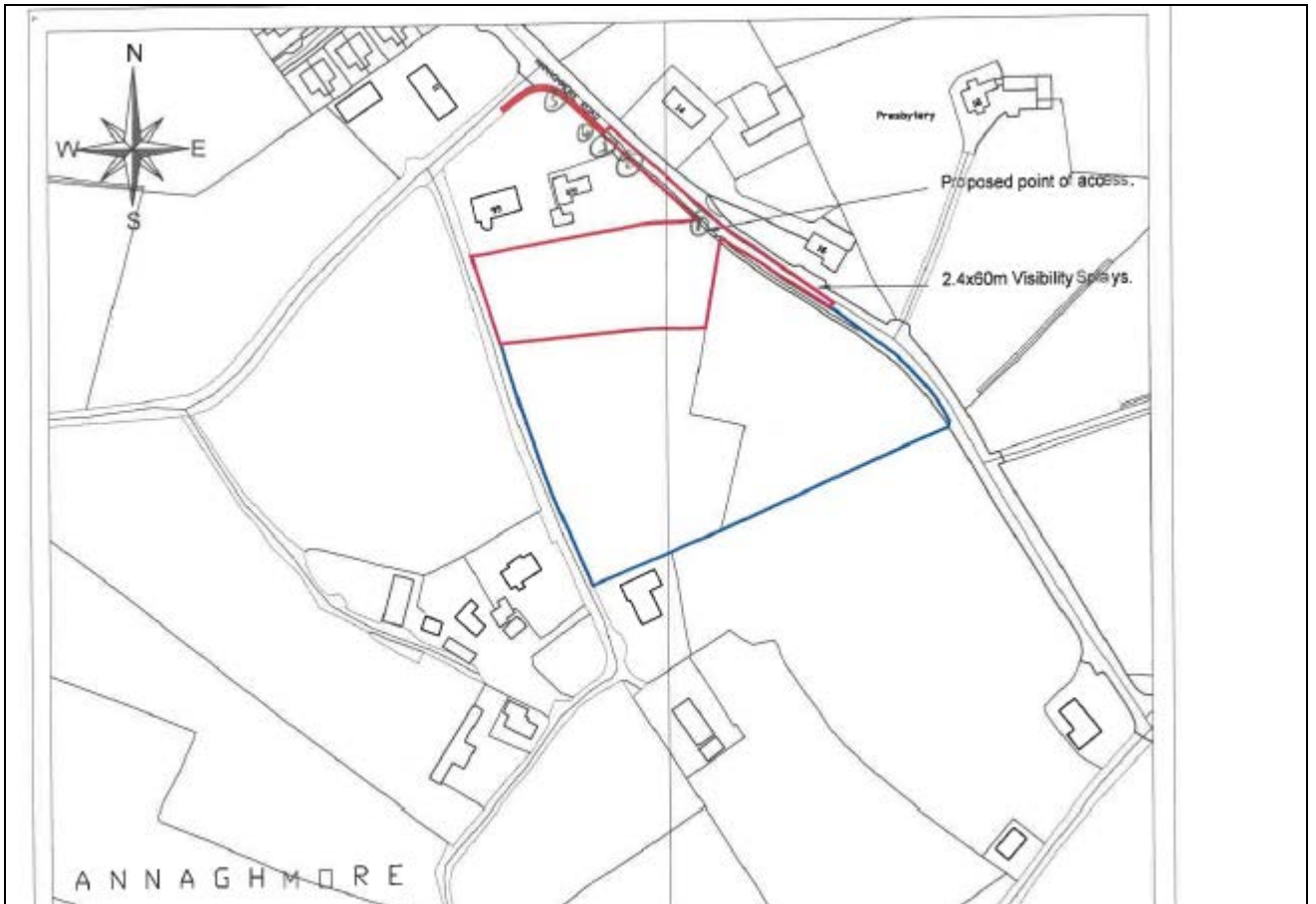
This is a full planning application for 5 no detached dwellings and garages with the inclusion of a footpath along public road.

**Deferred Consideration:**

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

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Map 1 – measurements taken on 31 March 2023

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DFI Roads were consulted following the meeting and asked to comment on the issues raised in the submission of 16<sup>th</sup> 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:

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- 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**

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

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

#### 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 3<sup>rd</sup> 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 3<sup>rd</sup> party land be required then this will be an issue that will have to be settled between the interested parties. Should damage to 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> 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 3<sup>rd</sup> party land will be required to implement any part of the development, or 3<sup>rd</sup> 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.	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b> That planning permission be granted subject to the following conditions;	
<b>Conditions</b>	
<p>1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p>	
<p>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.</p> <p>Reason: To ensure a quality residential environment and to protect existing and proposed residential amenity.</p>	
<p>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.</p> <p>Reason: In the interest of visual amenity and to ensure a quality residential environment.</p>	
<p>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</p>	

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:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th June 2020
<b>Date First Advertised</b>	7th July 2020
<b>Date Last Advertised</b>	23rd February 2021
<b>Details of Neighbour Notification (all addresses)</b>	
<p>Brenda &amp; Isobel O'Neill  105 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ</p> <p>Mr &amp; 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 &amp; 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 &amp; 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 4QZ</p> <p>Seamus &amp; Lucia McCann  12 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ</p> <p>The Owner/Occupier,</p>	

<p>16 Annaghmore Road Coalisland Tyrone          Finbar &amp; Eimear Hughes          16 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ          Gillian McGrath          31 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ          Pete &amp; 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 &amp; Teresa Campbell          99 Gortgonis Road, Coalisland, Tyrone, BT71 4QQ          The Owner/Occupier,          Annaghmore Primary School, 10 Annaghmore Road, Coalisland, Tyrone, BT71 4QZ          Sharon &amp; Stephen Trainor &amp; McCann          EMAIL          The Owner/Occupier,          McCann Fuels, 12 Annaghmore Rd, Coalisland, Dungannon BT71 4QZ</p>	
<b>Date of Last Neighbour Notification</b>	4th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<p><b>Notification to Department (if relevant): NA</b>          Date of Notification to Department:          Response of Department:</p>	



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2021/1149/F <b>Recommendation:</b> Approve	<b>Target Date:</b> 1 October 2021
<b>Proposal:</b> New access	<b>Location:</b> 11A Strawmore Lane Doon Draperstown
<b>Applicant Name and Address:</b> E Kelly Esq 11A Strawmore Lane Doon Draperstown	<b>Agent name and Address:</b> Russell Finlay 350 Hillhead Road Magherafelt BT45 8QT
<b>Summary of Issues:</b> <p>This application was first before Members with a recommendation to refuse at July 2022 Planning Committee. It was considered the proposed new access was contrary to Policies AMP 2 of PPS3 and DCAN 15 in that it impacted upon Road Safety. Members agreed to defer the application for a Members site visit, which did take place. DFI Roads were also present at the site visit. A further site meeting has taken place between the applicant and DFI Roads to decide on measures to improve road safety. The application is now before Members with a recommendation to Approve, with the justification for the recommendation is detailed further in this report.</p>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b> <p>The application site is located at 11a Strawmore Lane, Draperstown and is outside any defined settlement in the Magherafelt Area Plan 2015. It is within the Sperrins AONB. The topography of the area rises up from the Doon Road towards number 11, before falling towards the entrance to the site of number 11a. The landform continues to rise towards the South before falling away again towards the public road. The surrounding area is predominantly rural.</p>	

**Description of Proposal**

This is a full application for a new domestic access

**Deferred Consideration:**

This application is for a new access to a dwelling approved under LA09/2018/1262/F. This permission is live until 7th May 2024. The approved access utilised an existing laneway onto Doon Road, which runs parallel to Strawmore Lane. The applicant now wishes to take a new access directly onto Strawmore Lane. The area of contention which resulted in the initial recommendation to refuse is that the proposed access comes out onto Strawmore Lane adjacent to Doon Bridge. The applicant, in advance of gaining a permission for a new access, removed vegetation to provide clear visibility. Following consultation with DFI Roads concern was raised that the splays will not provide a safe access due to the location of the Doon Bridge wall which is within the proposed visibility splays. Roads also advised that the proposed access did not meet DCAN 15 minimum standard due to the close proximity of the Doon Bridge range wall. For these reasons the application was recommended for refusal.

In the intervening months, DFI Roads Structures Department have met the applicant on site. The required works to the site frontage and in close proximity of the bridge has been agreed in principle between both parties. The works will facilitate an acceptable visibility splay in accordance with DCAN 15 and will part overlook the bridge parapet wall. Formal re-consultation has been carried out with DFI Roads, who have confirmed this and they no longer offer an objection

It is therefore recommended that Members now approve this application subject to the conditions below.

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

The development hereby permitted shall be begun no later than the 7th May 2024

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

**Condition 2**

No other development hereby permitted shall be commenced until the vehicular access has been constructed in accordance with Drawing No. 02 bearing the date stamp 06 August 2021.

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

**Condition 3**

The minimum visibility splays of 2 metres by 33 metres at the junction of the proposed access

with the public road, shall be provided prior to the commencement of any works or other development.

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

**Condition 4**

The access gradient to the dwelling hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 m outside the road boundary.

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

**Signature(s):**Karla McKinless

**Date:** 24 October 2023





Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5 <sup>th</sup> July 2022	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1149/F	<b>Target Date:</b>
<b>Proposal:</b> New access	<b>Location:</b> 11a Strawmore Lane Doon Draperstown
<b>Referral Route:</b> Committee	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> E Kelly Esq 11a Strawmore Lane Doon Draperstown	<b>Agent Name and Address:</b> Russell Finlay 350 Hillhead Road Magherafelt BT45 8QT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



**Consultations:**

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

**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**

The application site is located at 11a Strawmore Lane, Doon Road, Draperstown and is located outside the designated settlement limits as defined in the Magherafelt Area Plan, 2015 and is located within an Area of Outstanding Natural Beauty.

The Topography of the area rises up from the Doon Road towards no.11 before falling towards the entrance to the site of No 11a. The landform continues to rise towards the

south before falling away again towards the public road. The surrounding area is predominantly rural.

### **Description of Proposal**

The proposal is a full application for a New Access

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

Magherafelt Area Plan, 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 3 Access, Movement and Parking  
PPS 21 Sustainable Development in the Countryside  
DCAN 15 Vehicular Access Standards

The site is located in the open countryside as defined by the Magherafelt Area Plan, 2015. Development in the countryside is controlled under the provisions of the SPPS and PPS 21 Sustainable Development in the countryside.

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan does not contain any specific policies relevant to the application or the site within which it sits. The principal planning policies are therefore provided by PPS 21 and the SPPS.

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

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

The policy test for this application is Planning Policy Statement 3:- Access, Movement and Parking.

DFI Roads were consulted on the application and responded to say that the visibility splays as proposed on drawing 02 dated 06 Aug 2021 will not provide a safe access onto Strawmore Lane Draperstown due to the location of the Doon Bridge range wall on the Northern side of the access which is within the proposed visibility splays.

The proposed access will not meet the DCAN 15 minimum standard of 2.0 x 30 metres due to the close proximity (18.0m) to the location of Doon Bridge range wall.

The approved access for this dwelling (LA09/2018/1262/F) onto Doon Road is the most appropriate and safe access to the public road network.

The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the visibility splays of 2.4 metres x 45 metres from the proposed access cannot be provided in accordance with the standards contained in the Departments Development Control Advise Note 15. DfI Roads recommend a refusal for the above application.

With this in mind I consider the proposed access arrangements to be unacceptable and in contrary to the provisions of PPS 3 - Access, Movement and Parking

**Conclusion**

The proposed access is clearly unacceptable and contrary to the provision of PPS 3 and DCAN 15 and therefore refusal is recommended

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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**Summary of Recommendation:**

Refusal

**Reasons for refusal:**

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since the visibility splays of 2.4 metres x 45 metres from the proposed access cannot be provided in accordance with the standards.
2. The proposed access will not meet the DCAN 15 minimum standard of 2.0 x 30 metres due to the close proximity (18.0m) to the location of Doon Bridge range wall.

3. The approved access for this dwelling (LA09/2018/1262/F) onto Doon Road is the most appropriate and safe access to the public road network.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	6th August 2021
<b>Date First Advertised</b>	24th August 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Strawmore Lane Draperstown Londonderry The Owner/Occupier, 11b Strawmore Lane, Draperstown, Londonderry, BT45 7JJ The Owner/Occupier, 14 Strawmore Lane Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	25th August 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1262/F Proposal: Change of house type from 1.5 storey to bungalow utilizing the existing footings as previously constructed under H/2006/1003/RM. Address: 70m SSW of 11 Strawmore Lane, Draperstown., Decision: PG Decision Date: 10.05.2019  Ref ID: LA09/2021/1149/F Proposal: New access Address: 11a Strawmore Lane, Doon, Draperstown, Decision: Decision Date:  Ref ID: LA09/2017/1188/RM Proposal: New dwelling and garage Address: 80m S.E. of 11 Strawmore Lane, Draperstown, Decision: PG Decision Date: 16.11.2017	

Ref ID: LA09/2018/0177/F

Proposal: Extension to dwelling and conversion of garage to home gym

Address: 11 Strawmore Lane, Doon Road, Draperstown,

Decision: PG

Decision Date: 07.06.2018

Ref ID: H/2003/0562/O

Proposal: Site of dwelling and garage.

Address: Approx 280 SE of No 10 Strawmore Lane, Moneyneena, Draperstown.

Decision:

Decision Date: 19.01.2004

Ref ID: H/2004/0965/RM

Proposal: Dwelling and garage

Address: 280m South East of, 10 Strawmore Lane, Moneyneena, Draperstown

Decision:

Decision Date: 03.08.2005

Ref ID: H/2012/0159/O

Proposal: Proposed dwelling and garage

Address: 30m South East of 11 Strawmore Lane, Draperstown. Access via Doon Road,

Decision: PR

Decision Date: 18.03.2014

Ref ID: H/2006/1003/RM

Proposal: Dwelling and garage

Address: 300m South East of 10 Strawmore Lane, Draperstown

Decision:

Decision Date: 24.04.2007

Ref ID: H/2003/0561/O

Proposal: Site of dwelling and garage.

Address: Approx 300m SE of No 10 Strawmore Lane, Moneyneeny, Draperstown.

Decision:

Decision Date: 19.01.2004

Ref ID: H/2003/0014/O

Proposal: Site of dwelling and garage.

Address: Approx. 200m South of 10 Strawmore Lane, Moneyneeny, Draperstown.

Decision:

Decision Date: 18.03.2003

Ref ID: H/2006/0065/RM

Proposal: Proposed New Dwelling & Garage

Address: 200m South Of 10 Strawmore Lane, Moneyneena

Decision:

Decision Date: 10.05.2006

Ref ID: H/2002/0407/O

Proposal: Site for Dwelling & Garage.

Address: 200m south of 10 Strawmore Lane, Moneyneany, Draperstown.

Decision:

Decision Date: 09.09.2002

Ref ID: LA09/2015/0085/O

Proposal: Dwelling and garage

Address: 80m South East of 11 Strawmore Lane, Draperstown, Access via Doon Road,

Decision: PG

Decision Date: 04.11.2016

**Summary of Consultee Responses**

**Drawing Numbers and Title**



Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 01  
Type: Site Location Plan  
Status: Submitted

Drawing No. 02  
Type: Site Layout or Block Plan  
Status: Submitted

**Notification to Department (if relevant)**

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	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/1672/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed change of house type and relocation of dwelling and domestic garage from that originally approved under M/2013/0414/F and domestic garage	<b>Location:</b> Approx. 100m North of 34 Ferry Road Coalisland Dungannon
<b>Applicant Name and Address:</b> Mr Patrick And Mrs Lisa Trainor 4 Ferry Road Coalisland Dungannon	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application is for the relocation of a house and garage from the previously approved location. The house is located on a more exposed and visible site, it is much larger than originally approved and the design is not typically rural in appearance. The applicants have been offered the opportunity to amend the design and the location however they have instead provided a revised landscaping scheme and asked that it is conditioned to allow the house to be approved and built.	
<b>Summary of Consultee Responses:</b> DFI Roads - no objection subject to sight line improvements SES – HRA carried out and unlikely to have significant effects on European Designations NIEA – condition consent to discharge for septic tank and requested preliminary ecological assessment (desk top analysis)	

**Characteristics of the Site and Area:**

The site is located in the rural countryside outside any defined settlement limit designated under Dungannon and South Tyrone Area Plan 2010, approximately 2km southeast of Killeen. Lough Neagh lies approx. 200 – 300m to the north and northeast of the site.

The site in effect comprises two relatively square shaped plots, one larger southwest plot and one smaller northeast plot cut from the same much larger rectangular shaped host field. The larger southwest plot, previously approved for a dwelling and a garage under planning application M/2013/0414/F, comprises the overgrown foundations of a garage and a pre-fabricated modular building in use as a dwelling. The smaller northeast plot is where the current application seeks to relocate the previously approved scheme with a change of house type including garage. The site is set back approx. 450m from and accessed off the Ferry Rd via an existing gravelled laneway. A mix of native hedgerows and vegetation bounds the host field, which sits above the level of the adjacent lough shores. The boundaries of the site within the host field are undefined. The land rises through the site from southwest to northeast as such the smaller northeast plot sits substantially elevated above the larger southwest plot.

Critical views of the site are from the Ferry Rd around its access off the road and on the approach to it from the lane serving it. From these views, the vegetation bounding the host field and land rising within it would provide a dwelling on the lower southwest plot with a sense of enclosure and backdrop. However, from these views a dwelling on the higher northeast plot, as currently proposed, is likely to sit in the skyline and be unduly prominent in the landscape, as it is bound only to one side.

The area surrounding the site is predominantly agricultural land interspersed with detached dwellings, ancillary buildings and farm groups. Significant peat operations exist in the area along the lane leading to the site.

**Description of Proposal**

This is a full planning application for the proposed relocation and change of house type of a dwelling and garage previously approved and deemed to have commenced on site under planning application M/2013/0414/F.

Planning application M/2013/0414/F on the 14th October 2014 granted permission for a dwelling and garage on a farm in the southwest body of the current site (see Fig 1, below). Works under the aforementioned permissions were to have commenced prior to the 14th October 2019.

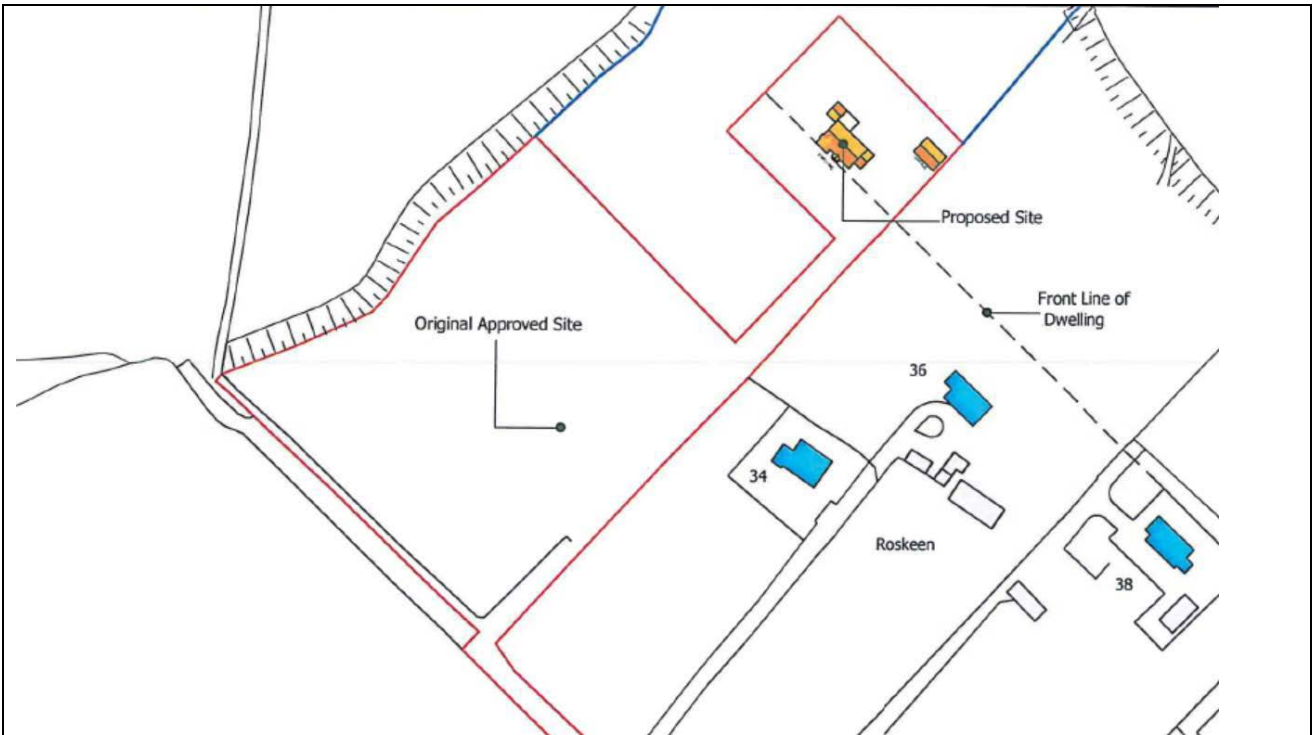


Fig 1: Current site location plan showing approx. location of previously approved dwelling and garage; and location of the change of house type including garage proposed.

Works on site would appear to have commenced in accordance with M/2013/0414/F. The access into the site and foundations of the garage appear to have been put in place within the specified timeframe as approved; and building control confirmed they carried out an inspection of the foundations on the 25th September 2019, as per a Building Control letter and invoice submitted alongside this application.

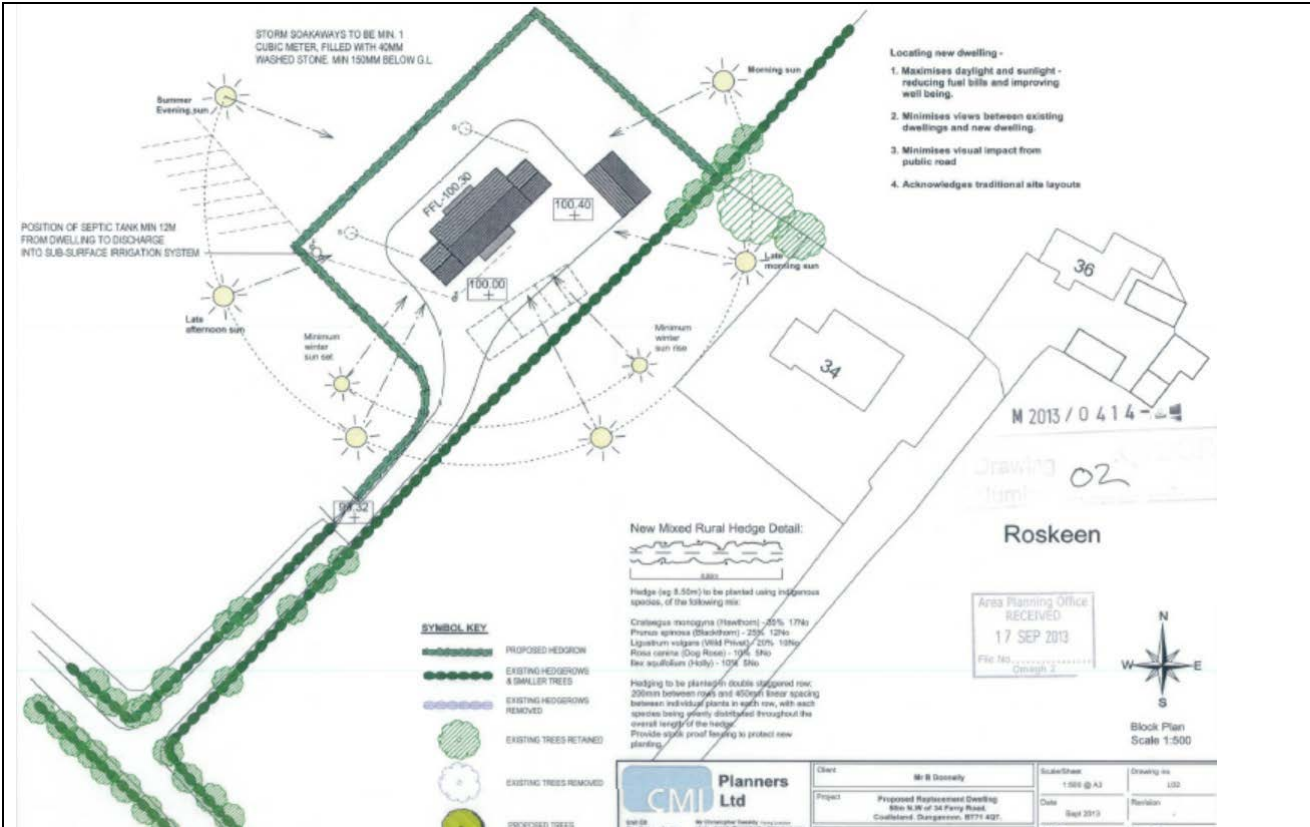


Fig 2: Block plan of dwelling and garage approved under M/2013/0414/F



Fig 3: Elevations of dwelling and garage approved under M/2013/0414/F

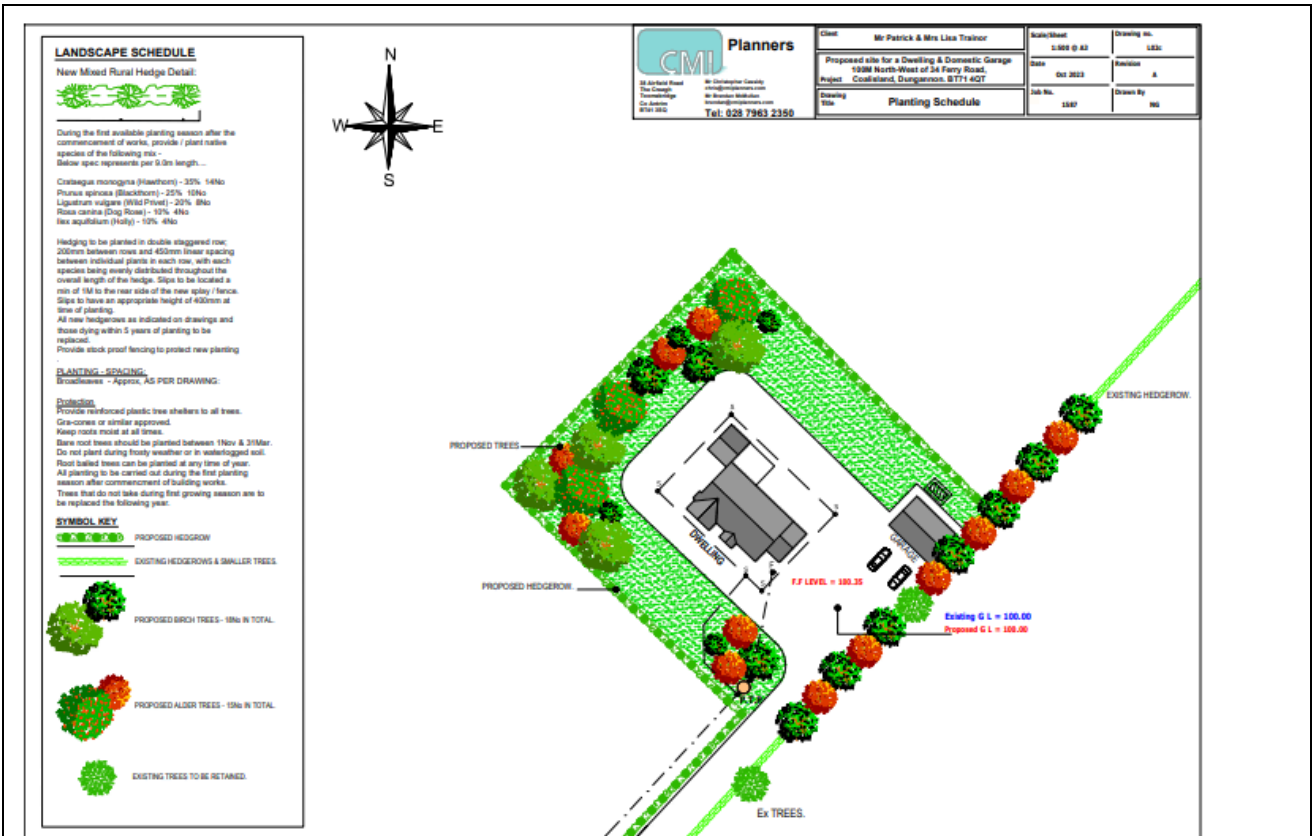


Fig 4: Block plan of dwelling and garage currently proposed, including revised landscaping plan



Fig 5: Floor plans and elevations of dwelling and garage currently proposed

As seen above in Figs 1, 2, 3, 4 & 5 above the previously approved scheme was for a modest single storey dwelling and single storey detached garage whilst the new proposal is for a substantial two-storey dwelling and single storey detached garage. The previous scheme was located in the southwest body of the current site on lower enclosed lands whilst the new scheme is to be located in the northeast body of the current site on elevated open lands.

**Deferred Consideration:**

This application was before the Planning Committee in July 2022 where it was deferred to allow a meeting with the Service Director. A meeting was held on 16 September and a further site visit was undertaken. At the site visit it was noted roadside vegetation has been removed which further opened up the site to views from the junction with Derryloughan Road and from this location the proposed dwelling would be prominent in the landscape on a local ridge line. Fig 6 shows the proposed dwelling superimposed onto the view from the junction, This view shows how prominent the site is and is a reasonable indication of how the dwelling will appear. It is noted the dwelling, especially in this view, will be divorced from the other buildings here will appear prominent in the landscape.

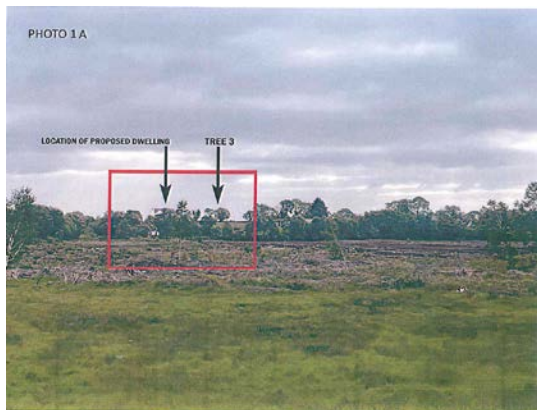


Fig 6 – Site identified and agent has superimposed dwelling in view from Derryloughan Road/Ferry Road junction.

The agent was advised to reduce the dwelling and resite, however additional information was provided about other houses in the immediate area. The dwellings referred to are located to the south east of the application site. as shown in Fig 7 below.

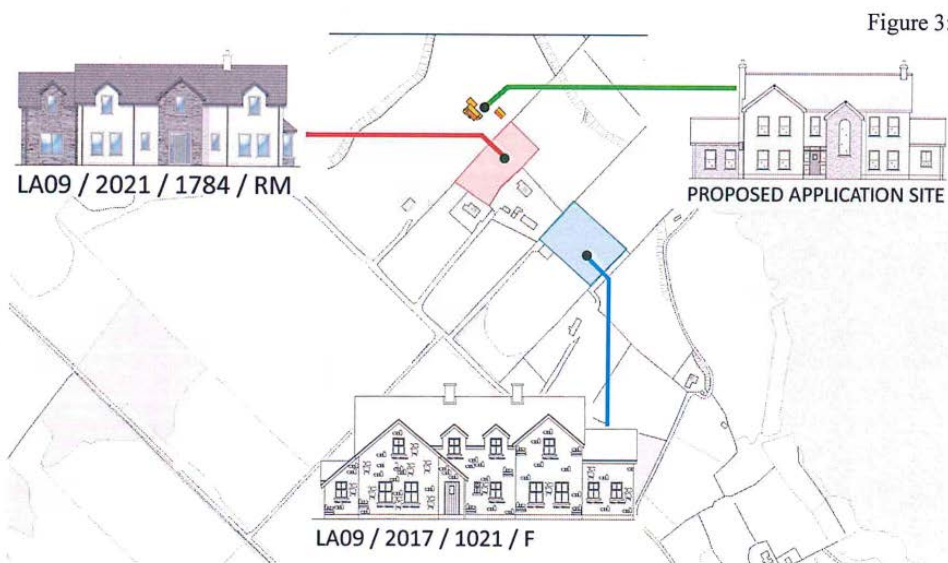


Figure 3:

Fig 7 – other houses approved nearby

At a meeting with Linda Dillon MLA, the applicants and the agent on 16 October 2023, these dwellings were discussed and everyone was advised about how applications are each considered on their own merits. The identified dwellings were assessed in relation to the integration prospects due to existing buildings and vegetation around them and were considered acceptable. The dwelling in blue on fig 7 has been constructed on site, it is lower in the landscape and so well enclosed by vegetation that it is not visible from the public road, the dwelling in red is on a site that is enclosed by vegetation and other buildings. The applicants were requested to revise the proposal and reduce the impact of the dwelling. The agent indicated they would submit a revised landscaping plan and wished to have a decision on the proposal.

Members are advised that CTY13, para 3.59 – 3.64 deal with the issue of integration and that dwellings on top of slope/ridge locations will be unacceptable. It further sets out that new planting alone will not be sufficient and a dwelling on an unacceptable site cannot be integrated by the use of landscaping. The reason for this is the time period that is necessary for landscaping to mature. The proposed dwelling will be prominent in public views as indicated in fig 6 and as such it is recommended this application is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and the design of the dwelling is inappropriate for the site and its locality due to its size, scale and massing, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside..

**Signature(s)**

**Date:**





Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1672/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of house type and relocation of dwelling and domestic garage from that originally approved under M/2013/0414/F and domestic garage	<b>Location:</b> Approx. 100m North of 34 Ferry Road Coalisland Dungannon
<b>Referral Route: Refuse</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Patrick And Mrs Lisa Trainor 4 Ferry Road Coalisland Dungannon	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report

Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Advice
<b>Representations:</b>		
Letters of Support		None Received
Letters of Objection		None Received
Number of Support Petitions and signatures		No Petitions Received
Number of Petitions of Objection and signatures		No Petitions Received

**Description of Proposal**

This is a full planning application for the proposed relocation and change of house type of a dwelling and garage previously approved and deemed to have commenced on site under planning application M/2013/0414/F.

Planning application M/2013/0414/F on the 14<sup>th</sup> October 2014 granted permission for a dwelling and garage on a farm in the southwest body of the current site (see Fig 1, below). Works under the aforementioned permissions were to have commenced prior to the 14<sup>th</sup> October 2019.

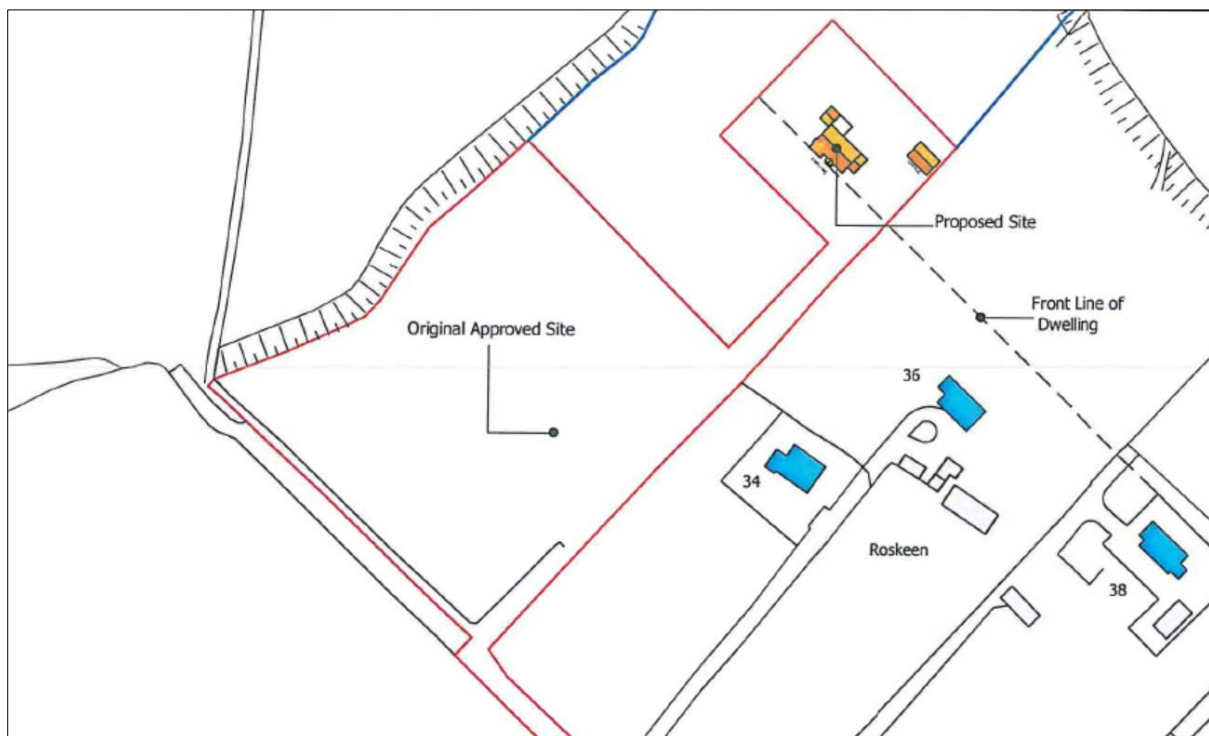


Fig 1: Current site location plan showing approx. location of previously approved dwelling and garage; and location of the change of house type including garage proposed.

Works on site would appear to have commenced in accordance with M/2013/0414/F. The access into the site and foundations of the garage appear to have been put in place within the specified timeframe as approved; and building control confirmed they carried out an inspection of the foundations on the 25<sup>th</sup> September 2019, as per a Building Control letter and invoice submitted alongside this application.

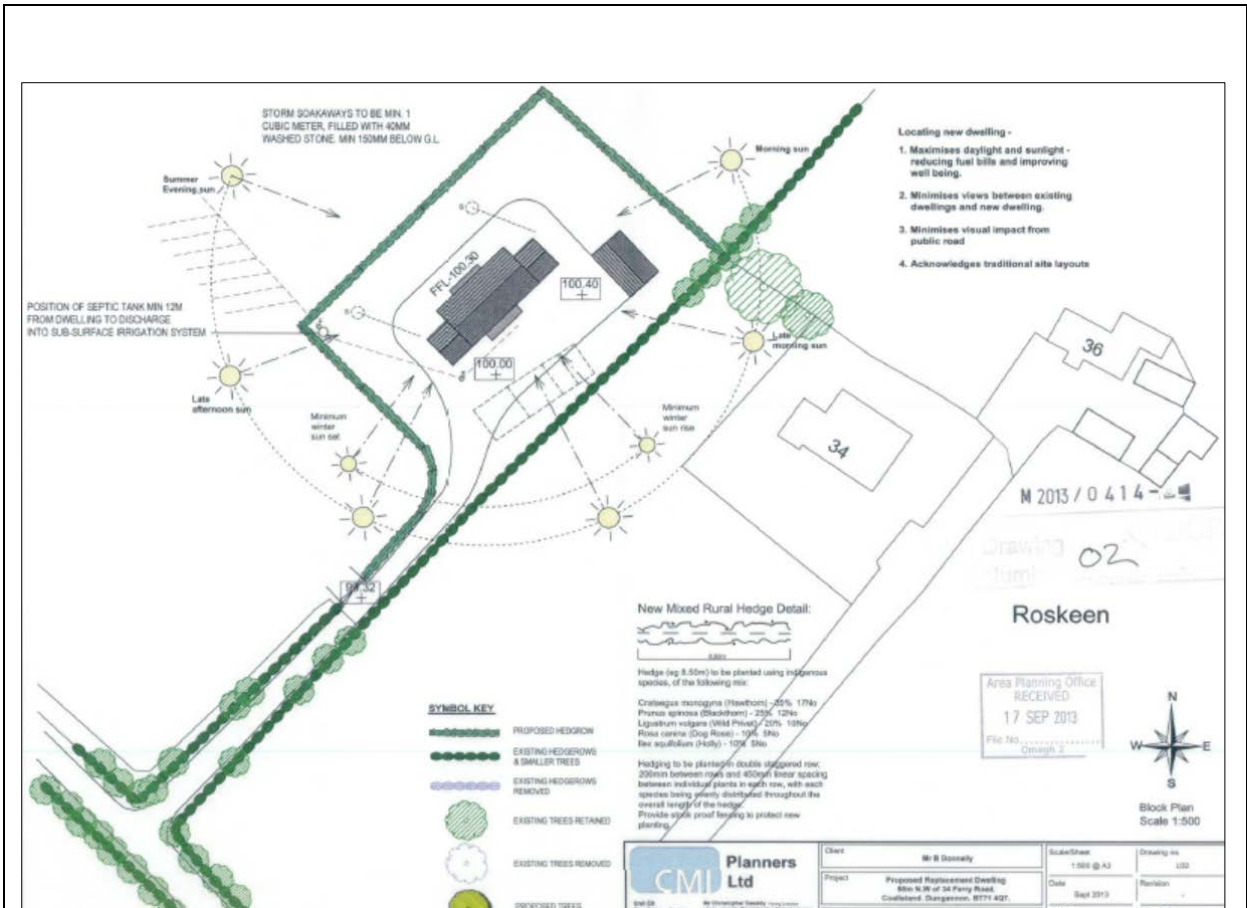


Fig 2: Block plan of dwelling and garage approved under M/2013/0414/F



Fig 3: Elevations of dwelling and garage approved under M/2013/0414/F



Fig 4: Block plan of dwelling and garage currently proposed



Fig 5: Floor plans and elevations of dwelling and garage currently proposed

As seen above in Figs 1, 2, 3, 4 & 5 above the previously approved scheme was for a modest single storey dwelling and single storey detached garage whilst the new proposal is for a substantial two-storey dwelling and single storey detached garage. The previous scheme was located in the southwest body of the current site on lower enclosed lands whilst the new scheme is to be located in the northeast body of the current site on elevated open lands.

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

The site is located in the rural countryside outside any defined settlement limit designated under Dungannon and South Tyrone Area Plan 2010, approximately 2km southeast of Killeen. Lough Neagh lies approx. 200 – 300m to the north and northeast of the site.

The site in effect comprises two relatively square shaped plots, one larger southwest plot and one smaller northeast plot cut from the same much larger rectangular shaped host field. The larger southwest plot, previously approved for a dwelling and a garage under planning application M/2013/0414/F, comprises the overgrown foundations of a garage and a pre-fabricated modular building in use as a dwelling. The smaller northeast plot is where the current application seeks to relocate the previously approved scheme with a change of house type including garage. The site is set back approx. 450m from and accessed off the Ferry Rd via an existing gravelled laneway. A mix of native hedgerows and vegetation bounds the host field, which sits above the level of the adjacent lough shores. The boundaries of the site within the host field are undefined. The land rises through the site from southwest to northeast as such the smaller northeast plot sits substantially elevated above the larger southwest plot.

Critical views of the site are from the Ferry Rd around its access off the road and on the approach to it from the lane serving it. From these views, the vegetation bounding the host field and land rising within it would provide a dwelling on the lower southwest plot with a sense of enclosure and backdrop. However, from these views a dwelling on the higher northeast plot, as currently proposed, is likely to sit in the skyline and be unduly prominent in the landscape, as it is bound only to one side.

The area surrounding the site is predominantly agricultural land interspersed with detached dwellings, ancillary buildings and farm groups. Significant peat operations exist in the area along the lane leading to the site.

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

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

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

Regional Development Strategy 2030

Dungannon and South Tyrone Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

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

### **Representations**

Press advertisement and Neighbour Notification has been carried out in line with the Council's statutory duty. At the time of writing, no third party representations were received.

### **Relevant Planning History**

#### On Site

- M/2002/0984/O - Replacement Dwelling House - 100m West of 34 Ferry Rd Coalisland - Withdrawn 1<sup>st</sup> March 2003 it would appear as there was no justification for it in a countryside policy area; and the dwelling did not meet replacement criteria.
- M/2005/0520/O - One dwelling - 100m West of 34 Ferry Rd Coalisland - Withdrawn 23<sup>rd</sup> September 2005 it would appear as there was no justification for it in a countryside policy area
- M/2013/0414/F - Farm dwelling and garage - 50m NW of 34 Ferry Rd Coalisland - Granted 14<sup>th</sup> October 2014
- LA09/2021/0063/CA - Alleged unauthorised modular building - 32 Ferry Road Coalisland - Assessment of enforcement case

#### Adjacent

- LA09/2020/1443/O - Proposed dwelling on a farm (CTY 10) - Adjacent to 34 & 36 Ferry Rd Dungannon - Granted
- LA09/2021/1784/RM - Proposed dwelling & garage - Adjacent to 34 & 36 Ferry Rd Dungannon - Granted

The above applications relate to lands to the rear of no. 34 Ferry Rd and immediately southeast of where the dwelling and garage under the current application is proposed to be sited. The dwelling approved under the above applications was 1 ¾ storey with a 7.5m ridge height above FFL.

### **Consultees**

1. Dfi Roads were consulted in relation to access arrangements and have raised no objections to this proposal, subject to standard conditions and informatives. Accordingly, subject to these conditions and informatives I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Shared Environmental Services (SES) were consulted in relation to any potential hydrological link from the development to a European site as the site is located within Lough Neagh Ramsar Site; the applicant intends to use a package treatment plant for foul sewage; and both foul & storm drainage is to be taken to an existing open stream boundary.

SES have carried out a Habitats Regulation Assessment (HRA) report responded that having considered the nature, scale, timing, duration and location of the project, concluded it would not be likely to have a significant effect on any European site, either alone or in combination with any other plan or project and therefore an appropriate assessment is not required. In reaching this conclusion, no account was taken of measures intended to avoid or reduce potential harmful effects of the project on any European site. No likely significant effect is predicted due to the scale/nature of the proposed development, the presence of existing development in the vicinity and the quality of the habitat that will be lost to facilitate the proposed development.

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by SES, dated 24<sup>th</sup> March 2022. This found that the project would not be likely to have a significant effect on any European site.

3. NIEA were consulted in relation to any potential hydrological link from the development to a European site as the site is located within Lough Neagh Ramsar Site; the applicant intends to use a package treatment plant for foul sewage; and both foul & storm drainage is to be taken to an existing open stream boundary.
  - Water Management Unit (WMU) and Inland Fisheries – WMU has considered the impacts of the proposal on the surface water environment and is content with the proposal subject to conditions, any relevant statutory permissions being obtained and the applicant referring and adhering to DAERA Standing advice. Inland Fisheries is content.
  - Natural Environment Division (NED) - Noted no ecological information had been submitted with the application and advised they required further information to fully assess the likely impacts on natural heritage interests. Based on aerial photography and the proposal drawings it appears that the site is likely to contain significant natural heritage interest. NED considers that a Preliminary Ecological Appraisal (PEA) is required to assess the potential impacts. A PEA will provide direction as to whether more detailed and/or targeted surveys should also be carried out. NED notes that the site contains suitable habitat for breeding birds and considers that site vegetation clearance works should not be undertaken during the birdbreeding season (which extends from 1st March to 31st August) unless an appropriate survey has been carried out by a suitably experienced ecologist which confirms the absence of active nests.

With regards NED's response above, I note it was a desk-based response, the lands within the site comprise improved grassland and existing vegetation bounding the site could be conditioned to be retained, should any development be accepted

### **Consideration**



Dungannon and South Tyrone Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in Policy CTY1 of PPS21.

I am content the principle of this development, a dwelling and garage, has been established on site through the previous approval M/2013/0414/F and the subsequent commencement of development. As detailed in 'Description of Proposal' further above works on site would appear to have commenced in accordance with M/2013/0414/F. The access into the site and foundations of the garage appear to have been put in place within the specified timeframe as approved (prior to the 14<sup>th</sup> October 2019); and building control confirmed they carried out an inspection of the foundations on the 25<sup>th</sup> September 2019, as per a Building Control letter and invoice submitted alongside this application.

The above said with respect to the relocation and design of the dwelling and garage proposed it must still comply with Policies CTY 13 and 14 of PPS 21. CTY 13 states that the proposed development must be able to visually integrate into the surrounding landscape and be of an appropriate design. Policy CTY 14 allows for a building in the countryside where it does not cause detrimental change to or further erode the rural character of the area.

In this instance, I do not believe the site has the capacity to absorb the proposed dwelling in accordance with Policy CTY13 and 14 in that the proposed site has only one established (eastern) boundary and therefore is unable to provide a suitable degree of enclosure for the building to integrate into the landscape. Furthermore, the size, scale, and massing of the dwelling in my opinion is inappropriate for the site and locality and if permitted would be a prominent feature in the landscape when viewed from the surrounding vantage points (see 'Characteristics of the Site and Area') leading to a detrimental change to the rural character of the area.

Whilst the previous dwelling was a low ridge bungalow of modest size and scale on lower more enclosed lands, the proposed dwelling is a substantial 2-storey dwelling (ridge height approx. 8.7m above FFL) on more elevated open lands, which in my opinion would have a significantly greater visual impact when viewed from surrounding vantage points. I would also note that the previously approved scheme was relatively simplistic in design and consistent with simple rural form whereas the new dwelling has two large front projections not considered typical of simple rural form.

Accordingly, the agent was contacted via email on the 12<sup>th</sup> May 2022 and advised Planning did not consider the design of the dwelling to be consistent with simple rural

form; and that due to its size, scale and location on an elevated and open site it would not integrate and appear prominent in the landscape. The agent was offered the opportunity to submit the following additional information for further consideration within 21 days from the of the email i.e. the 2<sup>nd</sup> June 2022:

- An amended design showing the size and scale of the property reduced;
- An amended block to show the dwelling moved lower down the field onto lower lands near the position of the previously approved dwelling; and
- A few existing (from a fixed point i.e. on the public road) and proposed spot levels.

To date no additional information for consideration has been received.

**Other Policy/Considerations**

Whilst the location and design of the dwelling including garage is not considered acceptable I had no concerns regarding it impacting the amenity of any existing or potential (see Planning History LA09/2020/1443/O & LA09/2021/1784/RM) neighbouring properties to any unreasonable degree owing to its location and the separation distances retained.

In addition to checks on the planning portal Historic Environment Division map viewer available, online has been checked and identified no built heritage assets of interest on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

The development is under the 15.2m height threshold in the area requiring consultation to Defence Estates relating to Met Office - Radar. The development is located within an area of constraint on wind turbines; the development is not for a turbine.

**Taking all of the above into consideration I would recommend the refusal of this application.**

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	Refuse

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the site is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and the design of the dwelling is inappropriate for the site and its locality due to its size, scale and massing, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if

permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0063/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 15 March 2022
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent To 16 Roshure Road Desertmartin Magherafelt
<b>Applicant Name and Address:</b> Mr Rodney MC Knight 16 Roshure Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  This is an outline application for a proposed replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin.	
<b>Deferred Consideration:</b>  This application was last presented before the Members with a recommendation to refuse in July 2023 where it was deferred for a site visit with Members.  Having carried out my site inspection I am not persuaded this building was ever used as a dwelling house. Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all the external walls are substantially intact. Buildings designed and used for agricultural purposes will not be eligible for replacement under this policy.	

Apart from the current domestic storage use that I observed, evidence regarding the building's original purpose and use history is inconclusive. The agent has stated there was an outside toilet to the western elevation of the building, but I have found no evidence of this on the ground.

The agent has submitted a Griffiths Valuation map from 1859. The agent has also pointed to different buildings to be replaced from that 1859 map. The 1859 list includes details for Samuel Fleming for a "house, offices and land". The 1859 map shows several buildings, and I am not persuaded, based on the detailing of the building, that the dwelling at that time is the building as it currently stands. Given the valuation refers to offices being situated at that time it seems to me more likely this building was used as offices and not as a dwelling.

I am not persuaded that the building was designed as a dwelling house. This is a single room building which does not have any of the essential characteristics of a dwelling house and is of such restricted floorspace does not present as ever being used as a dwelling. I do not consider there to be persuasive documentary evidence to demonstrate that the building had ever been used residentially or been rated as such. The building is therefore not eligible for replacement under Policy CTY 3. I further conclude that the proposal is not acceptable in principle in the countryside as set out in Policy CTY 1.

I recommend a refusal of this application based solely on CTY 3 as the building is not a building that exhibits the essential characteristics of a dwelling house and is not eligible for replacement under this policy.

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s):**Karen Doyle

**Date:** 16 October 2023

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0063/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 15 March 2022
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent To 16 Roshure Road Desertmartin Magherafelt
<b>Applicant Name and Address:</b> Mr Rodney MC Knight 16 Roshure Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is located off the Roshure Road between Desertmartin and Magherafelt and is in the rural area. The red line of the site covers the existing curtilage of No 16 Roshure Road and the building the applicant is seeking to replace. The site is accessed via an existing laneway to No 16. The character of the area is predominantly agricultural fields interspersed with dwellings and farm buildings.	
<b>Description of Proposal</b>  This is an outline application for a proposed replacement dwelling and domestic garage adjacent to 16 Roshure Road, Desertmartin.	

**Deferred Consideration:**

This application was presented before the Members with a recommendation to refuse in June 2022 where it was deferred for an office meeting with the Service Director. At the office meeting the agent presented a case for the building being a former dwelling and it was agreed I would carry out a site inspection and re-consider the application.

Having carried out my site inspection I am not persuaded this building was ever used as a dwelling house. Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all the external walls are substantially intact. Buildings designed and used for agricultural purposes will not be eligible for replacement under this policy.

Apart from the current domestic storage use that I observed, evidence regarding the building's original purpose and use history is not only inconclusive, but given its design, somewhat questionable. The restricted dimensions and single room use is not indicative of residential use. It is clear from my site inspection that more modern, though the dates are unknown, works have taken place to the building. This is particularly evident at the gable end to the north east of the building which has been secured by modern block work. The inside of the building has been modernised with the rendered walls evident from my site inspection. What I consider to be currently the front of the building, that is the south eastern elevation, has also been somewhat modernised with significant brickwork around the openings of both the door and the window. I am not persuaded that the window opening is an original opening given the extent of more modern brick and plaster work. The same can be said for the window opening to the rear of the building along the north western elevation which is finished in the same way.

The agent has submitted a Griffiths Valuation map from 1859. The agent has also pointed to different buildings to be replaced from that 1859 map. The 1859 list includes details for Samuel Fleming for a house, offices and land. The 1859 map shows several buildings and I am not persuaded, based on the detailing of the building that the dwelling at that time was the building as it currently stands.

I am not persuaded that the building was designed as a dwelling house. This is a single room building which does not have any of the essential characteristics of a dwelling house and is of such restricted floorspace does not present as ever being used as a dwelling. The building is therefore not eligible for replacement under Policy CTY 3. I further conclude that the proposal is not acceptable in principle in the countryside as set out in Policy CTY 1.

I recommend a refusal of this application based solely on CTY 3 as the building is not a building that exhibits the essential characteristics of a dwelling house and is not eligible for replacement under this policy.

**Conditions/Reasons for Refusal:****Refusal Reasons**

Reason 1

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

**Reason 2**

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s):**Karen Doyle

**Date:** 21 June 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0063/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling and domestic garage	<b>Location:</b> Adjacent to 16 Roshure Road Desertmartin Magherafelt
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 3 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Rodney Mc Knight 16 Roshure Road Desertmartin Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1 and 3 of PPS 21.

### Characteristics of the Site and Area

The site is located 1.59km south east of the development limits of Desertmartin, as such the site is located within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan. The red line covers the existing curtilage of No.16 Roshure Road inclusive of the building identified to be replaced. I note that the site is accessed via the existing access that serves No.16. The surrounding area is mainly agricultural in nature with single dwellings located sporadically throughout the area.

#### Representations

Two neighbour notifications were sent out however no third party representations have been received.

## Description of Proposal

This is an outline application for a proposed replacement dwelling and domestic garage located at Approx. Adjacent to 16 Roshure Road, Desertmartin, Magherafelt.

## Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Magherafelt Area Plan 2015  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 3 - Replacement Dwellings

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. Upon the site visit I note that there is an existing building on the site, however it did not appear to have the main characteristics of a dwelling. I note it did have a door way and windows, however there was no chimney nor fireplace upon internal inspection. In essence it appears to be an old byre or outbuilding wherein I am not content that a valid replacement opportunity exists. I note the agent has provided additional information to try and demonstrate that this was a house, however upon review of this I am still not content that this is sufficient to change my view.

In addition, the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. I note that this is only an outline and only an indicative position has been provided where I note the building is located within the curtilage and yard of no. 14. As such I am content that the building should be replaced as close to the existing position as possible. But given the application has failed to demonstrate a valid replacement opportunity I hold the view it fails under CTY 3.

After further discussions he confirmed that this was the only case that was applicable, after a quick review of CTY 1, I hold that a dwelling would not be acceptable under the remaining policies.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent and would be able to successfully integrate into the landscape. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape wherein it would not cause detrimental harm to the rural character of the area. On a whole I am content that the proposed development complies with CTY 14.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

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.

I have no flooding, ecological or residential amenity concerns.

The proposal fails under CTY 1 and 3 of PPS 21, as such I recommend refusal.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**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 Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s)**



**Date:** 16/5/22

<b>ANNEX</b>	
<b>Date Valid</b>	18th January 2022
<b>Date First Advertised</b>	1st February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 14c Roshure Road, Desertmartin, Londonderry, BT45 5PB The Owner/Occupier, 16 Roshure Road, Desertmartin, Londonderry, BT45 5PB	
<b>Date of Last Neighbour Notification</b>	17th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2022/0063/O Proposal: Proposed replacement dwelling and domestic garage Address: Adjacent to 16 Roshure Road, Desertmartin, Magherafelt, Decision: Decision Date:  Ref ID: H/2002/0825/O Proposal: Site of Dwelling and Garage Address: Adjacent to 16 Roshure Road, Desertmartin Decision: Decision Date: 16.07.2003  Ref ID: H/1994/4030 Proposal: RENOVATIONS TO DWELLING Address: 16 ROSHURE ROAD MAGHERAFELT Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No. 01  
Type: Site Location Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0121/F <b>Recommendation:</b> Approve	<b>Target Date:</b> 25 March 2022
<b>Proposal:</b> Retention of farm machinery and animal feed store	<b>Location:</b> 55 M North Of 199 Glen Road Maghera
<b>Applicant Name and Address:</b> Mr John O'Kane 199 Glen Road Maghera BT46 5JN	<b>Agent name and Address:</b> Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Summary of Issues:</b>  This application was first before Members at December 2022 Planning Committee with a recommendation to refuse. It was considered that the proposal was contrary to Policy CTY 12 of PPS 21 and Policy FLD 1 of PPS 15. Members agreed to defer the application for an office meeting with the Service Director and Senior Officer. This took place on the 15th December 2022 and following the submission of additional information and further consultation with Rivers Agency, the application is before Members again with a recommendation to Approve. Justification for this is provided further in this report.	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is set back 280m off the Glen Road and is accessed via an existing laneway. The access point is located between Fallagloon Community Hall and an approved site, currently used as a storage yard. The laneway follows the field boundaries, extending past the applicants dwelling before crossing through the Fallagloon Burn which is a 4m wide watercourse. No bridge exists at this crossing point. The shed is sited on an elevated portion of ground which has been infilled to create a level platform. The site is bounded to the rear, northern side by mature trees while the remaining three sides are undefined and are open to the surrounding agricultural	

field, which falls away towards the Fallagloon Burn to the south. Due to the distance the shed is set back from the public road and the intervening hedgerows, there are limited views of the shed from the public road.

### **Description of Proposal**

The proposal is for the rection of a six bay farm shed which has largely been completed. The shed is described as 'Retention of farm machinery and animal feed store'. The shed measures 29m x 10.5m with an eaves height of 5.75m and a ridge height of 6.63m above ground level. The shed has both gables partially built up with large door openings extending over half the gable width. The front of the shed, which faces south east, is completely open, while four bays on the rear, north west elevation, are sheeted from the eaves down to a height of approximately 2m from ground level. The lower section is currently open. The remaining two bays have solid block walls from ground level up to the sheeted portion.

### **Deferred Consideration:**

This proposal is for the retention of an existing agricultural shed. In terms of context, the applicant had initially thought that he benefitted from agricultural permitted development but once he realised he did not, he submitted the retrospective application of his own accord. There is no current live enforcement case on the site.

The development has been assessed primarily under CTY 1 and CTY 12 of PPS 21. CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. DAERA have confirmed that the farm business stated on the P1C has been established for more than 6 years and that it has claimed payments in each of the last 6 years. Therefore the business is both active and established for the required period of time. It is also necessary to assess the proposal against each of the policy tests as follows:-

- o The proposed development is necessary for the businesses efficient use;

Following a check of the land contained within the farm maps, no existing farm buildings are evident. The only buildings which currently exist on the farm holding, apart from the subject building, is the applicants dwelling and the domestic garage which is currently under construction. Therefore there would appear to be a need for a farm building to store feed stuffs and machinery.

- o It is appropriate in terms of character and scale;

The proposed shed is considered appropriate in terms of character and scale. It is located in a rural area scattered with agricultural buildings and it is typical of the scale of agricultural buildings across the district.

- o it visually integrates;

Although the site occupies an elevated location in the landscape, it does have an established boundary to the north which helps the building to achieve a sense of integration. The distance the shed is set back from the public road also helps the building to integrate into the landscape



as any views from the public road system are long distance. From those vantage points, the shed is set against mature vegetation and the rising ground to the north. Although the site does not have a sense of enclosure this is not critical due to the lack of public views.

- o there will be no adverse impact on natural or built heritage;

There are no listed buildings close by nor is the site in an area of archeological importance. The shed is used for the storage of machinery and feed and will not produce any emissions or run-off that will impact on features of natural heritage.

- o there will be no detrimental impact on residential amenity;

The building has the potential to have a detrimental impact on residential amenity as it is located immediately adjacent to an approved site for a replacement dwelling, which shares the same access laneway. However, it should be noted that the applicant owns the approved site, therefore this is not considered fatal to the proposal.

Furthermore the policy requires that where a new farm building is proposed, the applicant needs to demonstrate that there are no existing farm buildings which can be used, the design and materials are sympathetic to the locality and the proposed building is adjacent to the existing farm buildings. As stated above, this is the first farm building on the holding and therefore there are no existing buildings which can be utilised. The design and materials are typical of farm buildings and are acceptable in this location. However, whilst there are no existing farm buildings on the holding, there is the applicant's dwelling and an associated detached domestic garage, which is currently under construction. The dwelling and garage would therefore form an acceptable group of buildings for which to site a farm building beside.

The original case officer considered that no persuasive argument had been made to suggest that there are no other suitable sites available and did not accept that the proposed site was essential and not simply desirable. A fact of this case is that the shed is currently built and is being utilised for agricultural storage. It is having no impact on residential amenity, rural character, built or natural heritage. It is recommended that Members consider these factors and whilst the proposal may not meet all the criteria as set out in CTY 12, in particular, those around siting away from the buildings on the farm, to refuse this application and pursue the demolition or re-siting of this building would be unreasonable.

The proposal is also considered under PPS 15 - Planning and Flood Risk. Policy FLD 1 Development in Fluvial Flood Plains states that development will not be permitted within the 1 in 100 year fluvial flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy. One such exception is 'Development for agricultural use, transport and utilities infrastructure, which for operational reasons has to be located within the flood plain.' This proposal does not fit neatly into this exception as there are no clear operational reasons as to why it was erected in this location. Since the application was first before Members, the applicant has since submitted a Flood Risk Assessment. Rivers have reviewed this. The FRA does indicate that this area will be susceptible to flooding in a 1 and 100 year event however as the shed will be used to store machinery, the front and rear elevations are open to allow flood waters through and will not sustain significant damage during a flood event and there is no increased risk to flooding elsewhere as a result of the construction of this shed. It is my opinion that on the basis of the advice from Rivers Agency that it would not be unreasonable to accept this proposal as an exception to PPS 15.

To conclude, it is recommended that Members consider this proposal as an exception to Policies CTY 12 of PPS 21 and FLD 1 of PPS15 and Approve subject to the conditions set out below.

**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.

**Condition 2**

The existing natural screenings of the site as indicated on drawing no. 02, uploaded on public access on 16/02/22 shall be retained unless necessary to prevent danger to the public in which case a full expansion along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity

**Condition 3**

The existing development shall be used only for the storage of agricultural machinery and animal feed/fodder

Reason: To protect features of natural heritage in the immediate and wider locality.

**Signature(s):**Karla McKinless

**Date:** 19 October 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 December 2022	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2022/0121/F	<b>Target Date:</b> 25 March 2022
<b>Proposal:</b> Retention of farm machinery and animal feed store	<b>Location:</b> 55 M North Of 199 Glen Road Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr John O'Kane 199 Glen Road Maghera BT46 5JN	<b>Agent Name and Address:</b> Carol Gourley Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	

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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	NI Water - Strategic Applications	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	DAERA - Coleraine	Substantive: TBCResponseType: FR
	NI Water - Single Units West	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR

**Representations:**

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

## Summary of Issues

No representations have been received in respect of this proposed development.

## Characteristics of the Site and Area

The site is set back 280m off the Glen Road and is accessed via an existing laneway. The access point is located between Fallagloon Community Hall and an approved site, currently used as a storage yard. The laneway follows the field boundaries, extending past the applicants dwelling before crossing through the Fallagloon Burn which is a 4m wide watercourse. No bridge exists at this crossing point.

The shed site on an elevated portion of ground which has been infilled to create a level platform. The site is bounded to the rear, northern side by mature trees while the remaining three sides are undefined and are open to the surrounding agricultural field, which falls away towards the Fallagloon Burn to the south.

Due to the distance the shed is set back from the public road and the intervening hedgerows, there are limited views of the shed from the public road.

## Description of Proposal

The proposal is for the rection of a six bay farm shed which has largely been completed. The shed is described as 'Retention of farm machinery and animal feed store'. The shed measures 29m x 10.5m with an eaves height of 5.75m and a ridge height of 6.63m above ground level. The shed has both gables partially built up with large door openings extending over half the gable width. The front of the shed, which faces south east, is completely open, while four bays on the rear, north west elevation, are sheeted from the eaves down to a height of approximately 2m from ground level. The lower section is currently open. The remaining two bays have solid block walls from ground level up to the sheeted portion.

Although shed is currently used for the storage of farm machinery, the proposed plans indicate the presence of feed gates/galvanised railings along four of the rear, northern facing bays, which would indicate the intention to use the shed for animal housing. This is further reinforced as the plans also detail the external finishes of Moss Green corrugated tin to sides and roof of cattle shed. The block walls are to have a smooth render finish.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

Relevant planning history

There is no previous planning history on the applicatin site. However, planning approval has been granted for a replacement dwelling under LA09/2016/1159/O, on a site to the immediate north of the proposed shed. That approval has been renewed under LA09/2019/1295/O and is the subject of a second renewal under LA09/2022/1352/O. All the aforementioned applications for the replacement dwelling, utilise the same access

laneway as the proposed shed.

#### Development Plan and key policy considerations

The main policy consideration in the assessment of this proposed development are:-

PPS 21 - Sustainable development in the countryside

Policy CTY 12 Agricultural and forestry development

PPS 15 - Planning and Flood Risk

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

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

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

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

PPS 21 Policy CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years. DAERA have confirmed that the farm business stated on the P1C has been established for more than 6 years and that it has claimed payments in each of the last 6 years. Therefore the business is both active and established for the required time.

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

- o The proposed development is necessary for the businesses efficient use; Although the applicant has failed to provide any justification for the need for the proposed shed, following a check of the land contained within the farm maps, no existing farm buildings are evident. The only buildings which currently exist on the farm holding, apart from the subject building, is the applicants dwelling and the domestic garage which is currently under construction. Therefore there would appear to be a need for a farm building to provide both animal shelter and to store feed stuffs and machinery.

- o it is appropriate in terms of character and scale;

The proposed shed may be considered appropriate in terms of character and scale as it is proposed to be used as animal, fodder and machinery shelter.

- o it visually integrates;

Although the site occupies an elevated location in the landscape, it does have an established boundary to the north which would help the proposed building to achieve a

sense of integration. The distance the shed is set back from the public road also helps the building to integrate into the landscape as any views from the public road system are long distance. From those vantage points, the shed is set against mature vegetation and the rising ground to the north. Although the site does not have a sense of enclosure this is not critical due to the lack of public views.

- o there will be no adverse impact on natural or built heritage;

There will be no adverse impact on natural or built heritage.

- o there will be no detrimental impact on residential amenity;

The proposed building has the potential to have a detrimental impact on residential amenity as it is located immediately adjacent to the aforementioned approved site for a replacement dwelling, which shares the same access laneway. However, it should be noted that the applicant owns the approved site, therefore this is not considered fatal to the proposal.

Furthermore the policy requires that where a new farm building is proposed, the applicant needs to demonstrate that there are no existing farm buildings which can be used, the design and materials are sympathetic to the locality and the proposed building is adjacent to the existing farm buildings.

As stated above, this is the first farm building on the holding and therefore there are no existing buildings which can be utilised.

The design and materials are typical of farm buildings and are acceptable in this location.

However, whilst there are no existing farm buildings on the holding, there is the applicant's dwelling and an associated detached domestic garage, which is currently under construction. The dwelling and garage would therefore form an acceptable group of buildings for which to site a farm building beside.

No persuasive argument has been made to suggest that there are no other suitable sites available and it is not accepted that the proposed site is essential and not simply desirable. No health and safety reasons, other than to avoid the flood plain, have been provided. Furthermore, the applicant has failed to satisfactorily demonstrate why the building is necessary at this particular location and why it could not be sited at an alternative location other than to state that to locate the proposed shed 'further up the hill out of the flood plain would involve costly and environmentally destructive access as there is no laneway to those fields....' This issue is further expanded in the report below under PPS 15 Consideration.

Exceptionally an alternative site may be acceptable away from a group of existing farm buildings and where it is essential for the efficient functioning of the business and there are demonstrable health and safety reasons.

As no acceptable justification has been provided as to why the proposed building could not be located adjacent to the applicants dwelling and garage, it is contrary to these policy tests.

The applicant has already obtained planning approval for a replacement dwelling to the north of the proposed shed. The replacement dwelling will utilise the same laneway as the proposed shed and will extend the existing laneway beyond the site, Therefore it is clear that access can be gained beyond the proposed building by domestic vehicles and it is not accepted that the land is so steep that agricultural vehicles would not be able to

access an alternative site beyond the existing location.

Therefore, in my opinion, it is not accepted that there is any justification for a farm shed to be located at this particular location. Consequently, the proposal is considered to be contrary to the key tests of this policy.

#### PPS 15 - Planning and Flood Risk

Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains states that development will not be permitted within the 1 in 100 year fluvial flood plain unless the applicant can demonstrate that the proposal constitutes an exception to the policy. One such exception is 'Development for agricultural use, transport and utilities infrastructure, which for operational reasons has to be located within the flood plain.'

Where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test', as set out under the Exceptions heading, the applicant is required to submit a Flood Risk Assessment for all proposals. Planning permission will only be granted if the Flood Risk Assessment demonstrates that

- a) All sources of flood risk to and from the proposed development have been identified; and
- b) There are adequate measures to manage and mitigate any increase in flood risk arising from the development.

A Flood risk assessment has not been submitted.

The agent submitted a supporting statement advising of the following in an attempt to justify the proposed site.

These points are discussed as follows:-

1. The existing cattle and sheep pens/ crush has been located beside where the shed has been built - so this area forms the only working yard.

At the time of inspection, there was no evidence of any existing cattle or sheep pens/crush near the proposed site.

2. It is beside the original farm dwelling house (located behind) which has permission granted for replacement dwelling. Again, trying to keep development together and linked.

As detailed above, given that planning approval has already been granted for a replacement dwelling immediately north of the proposed shed, there is no reason why the proposed shed could not have been built immediately north of that dwelling and outside of the floodplain. That alternative site would still have achieved the same linkage with the dwelling.

3. This location is well screened and sheltered from local residents views (from Ballyknock and Fallylea sides, set behind an existing woodland. Building a shed on other fields not on a flood plain would likely draw objection from neighbours in close proximity (in its current location there have been no objections

To state that an alternative site 'would likely draw objections from neighbours in close proximity....' is speculation. Even if objections were received from neighbours, such objections would need to be based on planning reasons. It should be noted that the closest third party dwelling is located in excess of 200m west of the site at 14 Fallylea Road. No. 14 Fallylea Road also has associated farm buildings between the dwelling and the proposed site. Therefore, in my opinion, it is unlikely that any objections would



be afforded any determining weight.

4. Current location - has never flooded in John Senior's time (73). John has built up the ground where the shed is - finished floor height level is 3ft+ above original ground height. This is the highest point of the floodplain, the shed is built on the periphery (other side of the hedge is not in a floodplain). The lower fields not in the floodplain (meadows), can only be accessed across the lowest point of the floodplain (and is actually the old riverbed, having been re-routed in the past).

As the agent has stated, the site is within the floodplain. The applicant has raised ground levels within the floodplain by means of infilling which will have the effect of displacing flood water elsewhere. Clearly the proposed shed could have been erected on the opposite side of the boundary hedge and outside the floodplain.

5. Building on the lower fields not in the floodplain would involve construction of a new access laneway across the lower floodplain/meadows. Previous inspections by DARD have shown an abundance of rare plants and wildflowers in the meadows and were keen on minimising any development in this area. The upper portion of the floodplain did not have the same level of wildlife in part due to the increased level of travel in this area with the existing farm yard and laneway.

The applicant has alternatives to erecting a shed within those lower fields not in the floodplain. As discussed above, there are several fields above the floodplain which are accessible and which would meet all other policy requirements.

6. The present location has an existing laneway in place and therefore reduces the amount of construction needed with less impact on the environment.

As discussed above, the replacement dwelling approved adjacent to the proposed sites' northern boundary is to be accessed via the existing laneway. Therefore it is reasonable to expect that the laneway would be extended to that site. Indeed the current aerial photos indicate that extension to already exist. Therefore it would only be necessary to extend the laneway by around 50m in a north-easterly direction which involves a gentle uphill slope. This would involve a lesser impact on the environment than that already undertaken by way of infilling the current site within the floodplain.

7. Locating the shed further up the hill out of the flood plain would involve costly and environmentally destructive access as there is no laneway to those fields, with a steep gradient (wouldn't be able to get large farm machinery up there).

This point has been addressed at point 7.

8. Security - we can see the shed from our house and access is via a lane past our house. Lands further up beyond the flood plain can be accessed via a disused laneway which joins the Fallylea Road which for us would be too difficult to monitor and secure a shed this far away from our farmhouse.

If the suggested alternative site were developed as opposed to the existing site, it would be approximately 40m from the current site. This would still be visible from the applicants dwelling and could be accessed via the existing laneway. The existing shed is 100m from the applicants dwelling, the alternative site would be 140m from the applicants dwelling, but more importantly would be 300m from the Fallylea Road. Even if there is an existing laneway to the alternative site, as the supporting statement advises, this is disused, and it also leads past the existing properties on Fallylea Road.

9. Minimal risk to human or livestock - machinery shed with simple steel and concrete construction. No risk to human or animal welfare as shed to be used to store machinery, crops & animal feed.

Contrary to the above assertion, the proposal could create a risk to human or livestock as it involves the infilling of an area within the floodplain thereby displacing floodwaters

elsewhere. This has the potential to endanger both human life and/or livestock.  
10. The remaining fields not in the floodplain form the main pasture lands for cattle and sheep. The proposed location is not used for pasture/grazing and has been used for uncovered storage of machinery, round bales, equipment. Developing in the main pasture lands reduces available ground for grazing considerably in view of the small total acreage that John holds.

Council has access to ortho photography which clearly show the site was consistently in grass and used for agricultural purposes between 2003 and 2018. Therefore there is no difference between developing an alternative site and the proposed site.

The proposed site is therefore contrary to Policy FLD 1 of PPS 15.

CTY 13 Integration and design of buildings in the countryside.

As the site has the benefit of one established boundary and due to the distance it is set back from the public road and the restricted views of the proposed building, it will achieve an acceptable degree of integration

CTY 14 Rural Character

The proposal does not offend this policy as the proposed site is not considered to be prominent, it does not result in a suburban style form of development, it respects the traditional settlement pattern in the area, it does not create or add to a ribbon of development and the ancillary works would not damage rural character.

Recommendations

That planning approval be refused for the proposed development for the reasons listed below:-

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

The proposal and ancillary works are contrary to Policy FLD1 of Planning Policy Statement 15 Planning and Flood Risk in that the development would if permitted be at risk from flooding and would be likely to increase the risk of flooding elsewhere.

Reason 2

The proposal is contrary to policy CTY12 of Planning Policy Statement 21 Sustainable Development in the Countryside, in that it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and that health and safety reasons exist to justify an alternative site away from the existing farm buildings and that the alternative site is essential for the efficient functioning of the business.

**Case Officer:** Malachy McCrystal

**Date:** 23 November 2022

<b>ANNEX</b>	
<b>Date Valid</b>	28 January 2022
<b>Date First Advertised</b>	8 February 2022
<b>Date Last Advertised</b>	8 February 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 189A , Glen Road, Maghera, Londonderry, BT46 5JN The Owner / Occupier 189 Glen Road, Maghera, Londonderry, BT46 5JN The Owner / Occupier 199 Glen Road Maghera Londonderry BT46 5JN	
<b>Date of Last Neighbour Notification</b>	25 February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  NI Water - Strategic Applications-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC DAERA - Coleraine-Substantive: TBCResponseType: FR NI Water - Single Units West-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR	

**Drawing Numbers and Title**

Elevations and Floor Plans Plan Ref: 05  
Elevations and Floor Plans Plan Ref: 04  
Elevations and Floor Plans Plan Ref: 03  
Block/Site Survey 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	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0249/O	<b>Target Date:</b> 7 June 2022
<b>Proposal:</b> Erection of a dwelling & domestic garage on a farm	<b>Location:</b> Land Adjacent To & Immediately South Of 14 Tychaney Road Ballygawley
<b>Applicant Name and Address:</b> Jenna Robinson 223D Newtownsaville Road Eskra Omagh	<b>Agent Name and Address:</b> Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Summary of Issues:</b>  This application is for a dwelling on a farm, it met all the tests but was not sited to cluster with or visually link with existing buildings on the farm. Initially it was located in the middle of the field away from the group of buildings in the farm, an amended siting was submitted that meets the policies.	
<b>Summary of Consultee Responses:</b> DFI Rivers - surface water flooding to north, may want to request Drainage Assessment DFI Roads – recommend to approve with conditions, 2.4m x 45.0m sightlines and forward sight distance NIEA – refer to guidance DEARA –established but no recent claims on the land	
<b>Characteristics of the Site and Area:</b>  The site is located at lands adjacent to immediately south of 14 Tychaney Road, Ballygawley. The red line of the site includes a roadside portion of a larger agricultural field. Lands to the East and South of the site are outlined in blue, indicating ownership. The blue lands include farm buildings to the south and a dwelling with outbuildings on the opposite side of the road. The site has been amended to include this area to the south.	

The lands rise quite steeply from the roadside towards the east of the site. The surrounding area is rural in nature, with scattered dwellings and their associated outbuildings.

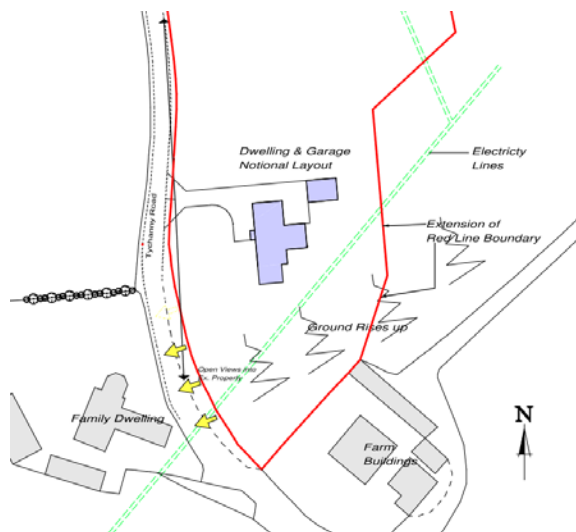
### Description of Proposal

Outline planning permission is sought for the erection of a dwelling and domestic garage on a farm.

### Deferred Consideration:

This application was before the Planning Committee in February 2023 where it was deferred for a meeting with the Service Director for Planning. At the meeting it was indicated that the proposal does not meet all the criteria for a dwelling on a farm as it was located too far from the group of buildings the farm.

Following the meeting the agent amended the proposal and provided an indicative layout to show a dwelling located further south than was previously proposed (Drawing No 02)



Drawing No 02.

The proposed siting is opposite and north of the existing farm house and below the level of the existing agricultural buildings. On approach from the north, the dwelling and garage will be located approx. as shown in red in fig 1 and will be visually linked and appear to cluster with the buildings.



Fig 1 site from the north, dwelling located in area identified as red

From the south it will be difficult to see the dwelling until level with the agricultural buildings due to the road alignment and the existing buildings. The new dwelling will be seen in the gap between the farmhouse and the agricultural buildings as seen in fig 2.



Fig 1 site from the north, dwelling located in area identified as red

I consider a dwelling of low elevation as now proposed will be closely associated with the existing group of buildings on the farm and now meets all of the criteria set out in CTY10. I recommend this application is approved with the conditions set out below.

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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. The dwelling and garage hereby approved shall be sited generally in accordance with the details as shown on drawing No 02 received 22 AUG 2023.

Reason: To ensure the development integrates into the landscape

4. The dwelling hereby approved shall have a ridge height not exceeding 6.5m above the finished floor level of the dwelling.

Reason: To ensure the development integrates into the landscape.

5. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 45.0m in both directions and a 45.0m forward sight line, shall be provided in accordance with the 1:500 site plan submitted and approved at reserved matters stage. 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.

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

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

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2022/0249/O	<b>Target Date:</b> 19 April 2022
<b>Proposal:</b> Erection of a dwelling & domestic garage on a farm	<b>Location:</b> Land Adjacent To & Immediately South Of 14 Tychaney Road Ballygawley
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Jenna Robinson 223D Newtownsaville Road Eskra Omagh	<b>Agent Name and Address:</b> Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>	

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

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**Consultations:**

Consultation Type	Consultee	Response
	NIEA	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Omagh	Substantive: TBCResponseType: FR

**Representations:**

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

**Summary of Issues**

The proposal is considered to be contrary to CTY 10 and CTY 13 of PPS 21 - Sustainable Development in the Countryside.

There were no representations received in relation to the proposal.

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

The site is located at lands adjacent to immediately south of 14 Tychaney Road, Ballygawley. The red line of the site includes a roadside portion of a larger agricultural field. Lands to the East and South of the site are outlined in blue, indicating ownership. The blue lands include farm buildings to the south and a dwelling with outbuildings on the opposite side of the road. The lands rise quite steeply from the roadside towards the east of the site. The surrounding area is rural in nature, with scattered dwellings and their associated outbuildings.

### **Description of Proposal**

Outline planning permission is sought for the erection of a dwelling and domestic garage on a farm.

### **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: 4 and 44 Turnabarson Road. At the time of writing, no third party representations were received.

##### Planning History

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

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

- 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 Area Plan 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.

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

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

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

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

o demonstrable health and safety reasons; or

o verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have noted in their response that the applicants Business ID has been in existence from 1991, but there have been no single farm payment claims made on the lands over the past 6 years. The agent provided supporting information, by way of receipts and invoices which date from and across the years 2015-2021 and relate to the sale of round bales, hedge cutting and the purchase of a range of agricultural goods. From this information, I am content that the farm holding has been active and established for at least 6 years and that the land itself has been maintained in good agricultural and environmental condition.

With respect to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of this application. Checks were carried out using the UNIFORM system and no historical applications have been found.

With respect to (c), the new dwelling is not considered to be visually linked with existing farm buildings and therefore we feel the proposal fails the policy on this criterion. The proposed site is approx. 60m at the closest point to the red line of the site and the farm complex to the South of the application site. The agent was asked for justification away from the farm buildings and he responded stating the proposed site avoids the High Voltage Electric line running through the site and the access position would be away from the bend in the Road. They added that the siting would protect the amenity of No.17 Tychanny Road, which is noted as the Farm Business ID owners address. It is our view that a dwelling could be sited and designed closer to the farm buildings without impacting on No.17's amenity. When discussed at our internal group meeting, we felt that the justification did not warrant an exception within the policy.

An area to the northern portion of the site indicates an area subject to surface flooding. Rivers agency were consulted on the proposal and noted that a Drainage Assessment is not required by the policy but the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood

risk to the proposed development and elsewhere. There was no further information sought from the applicant/agent to determine what impact this could have on potential development within the red line, given we weren't content with the principle of development at this site, however it may be something to be mindful of if approval were to be forthcoming. If the proposal is set outside of this flood zone, it would essentially be a cut out of an open field, would lack enclosure from existing boundaries and may appear prominent if siting on higher ground.

To conclude, there is appreciable distance between the proposed site and farm buildings and no justifiable reason has been provided by the agent to warrant siting away from the farm buildings. There appears to be alternative sites which would meet with the policy contained within CTY 10 within blue lands. There are no verifiable plans that the farm business is to be expanded.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, it is considered that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. There is some degree of hedging along the northern and roadside boundary but it is low lying and therefore wouldn't provide a suitable degree of enclosure or integration for a dwelling at this site.

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked with an established group of buildings on the farm. No health and safety reasons exist to justify an alternative site not visually linked with an established group of buildings on the farm and no verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

**Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape and the proposed building would fail to blend with the landform,

existing trees, buildings, slopes and other natural features which provide a backdrop. In the case of a proposed dwelling on a farm the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

**Case Officer:** Sarah Duggan

**Date:** 19 January 2023



<b>ANNEX</b>	
<b>Date Valid</b>	22 February 2022
<b>Date First Advertised</b>	10 March 2022
<b>Date Last Advertised</b>	8 March 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 14 Tycanny Road Garvaghy Dungannon Tyrone BT70 2EB The Owner / Occupier 17 Tycanny Road Garvaghy Dungannon Tyrone BT70 2EB	
<b>Date of Last Neighbour Notification</b>	21 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  NIEA-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Omagh-Substantive: TBCResponseType: FR	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	





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**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Further Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Erection of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Summary of Issues:</b> <p>This application was for the retention of a pre fabricated dwelling on a farm and has been changed to a proposed dwelling on a farm. It has not been demonstrated the farm is established for the 6 years needed in CTY10. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions stated in FLD1 and a dwelling is not an exception.</p>	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside 1 in 100 year flood area DFI Roads - access to be provided in accordance with proposed drawings DAERA – business allocated 16/03/2022, category 3 farm	
<b>Characteristics of the Site and Area:</b> <p>The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.</p> <p>There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.</p>	

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building and a shed to the rear.

**Description of Proposal**

This is a full application for the erection of a farm dwelling at 59 Derryvaren Road, Coalisland.

**Deferred Consideration:**

This application was before the Committee in September 2022 where it was deferred for a meeting with Service Director, it was brought back in February 2023 and deferred to allow the consideration of additional information that had been submitted.

The additional information submitted was a rebuttal of the reasons for refusal and included a proposed dwelling on the site instead of the retention of the existing prefabricated structure revised house type on the site, spot heights of the site and surrounding lands for DFI Rivers comment and advising that PAC Decisions have been taken on the basis of farming information submitted in support of applications.

No new farming information has been provided, it has been noted there is a Category 3 farm business issued on 16 March 2022, this does not establish the farm for the 6 years required in CTY10. The receipts previously submitted have already been assessed and are not considered to prove this is an established farm. I note the main building on the site is in existence since before 4 April 2007 and there are other temporary buildings that would appear to have been here since 2010, over 5 years. This would, in my opinion constitute a group of buildings on the farm. It has been previously accepted there are no development sites or dwellings transferred off the holding or planning permission granted for a dwelling on the farm in the last 10 years. I consider CTY10 criteria b and c have been met but criteria a has not, as such it has not been demonstrated this is an active and established farm and so is contrary to CTY10.

It has also been considered that Mr Campbell is a licensed Lough Neagh eel fisher and while there may be a proposed policy in the Draft Plan Strategy that may assist him, this is not currently adopted and the Council may not grant any development under this policy.

DFI Rivers were unable to comment on the original submission due to the spot levels being indecipherable. They have provided further information about flooding on the site and have provided clarification to the rebuttal about the land never having flooded. The classification states that historical flooding maps provide detail of lands that have flooded and are taken from surveys and photographs. The 1:100 year flood event maps are predictions of the area that will flood. The predicted flooding maps up to 2080 show the entire site is within a flood plain. (Fig 1) Members are advised that no new development is permitted in flood plains unless it meets the exceptions set out in FLD1, a dwelling is not one of those exceptions. FLD1 advocates a precautionary approach to development and indicates that where development is in an area that may flood it should be refused.



Fig 1 – Rivers updated flood maps, site identified on map

This application was for the retention of a mobile home on this site, the amended plans show a new one bedroom bungalow with 6m ridge height, storm porch with traditional dark slate or tiled roof and rendered walls. In principle, the appearance of this proposed dwelling would, in my opinion, be acceptable on this site and in this location, given the vegetation and scale and form of development around it. Following the receipt of the revised plans for the house in February 2023, neighbours were notified about these and have had the opportunity to comment on them. Additional flooding information was submitted and neighbours notified about those on 21 September 2023. Since then the description has been amended to reflect the current proposal, I do not consider this is a significant change to the proposal that would warrant re advertisement or additional notification. I am of the view that neighbours have been consulted on 3 occasions about the proposal and are aware of the development, could have made comment and are not prejudiced in any way. That said I do not consider the principle of the dwelling in policy terms has been established as it does not meet CTY10 and is located in an area that is likely to flood. As such the application is recommended for refusal.

**Reasons for Refusal:**

**Reason 1**

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

**Reason 2**

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the Countryside in that there is not an active and established farm business for the past 6 years.

**Signature(s)**

**Date:**





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50 Ballyronan Road  
Magherafelt  
BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retrospective application for the retention of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Summary of Issues:</b>  This application is for the retention of a pre fabricated dwelling on a farm. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions and a dwelling is not an exception.	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside 1 in 100 year flood area	
<b>Characteristics of the Site and Area:</b>  The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.  There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.  The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building which is the subject of this application and a shed to the rear.	

**Description of Proposal**

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

**Deferred Consideration:**

This application was before the Committee on 6 September 2022 with a recommendation to refuse, where it was deferred for meeting with the Service Director. At the deferral meeting on 16 September 2022 it was indicated the proposal is for the applicants farm dwelling and that he had been living in a caravan at the rear of the site. The proposed dwelling is of a temporary nature and the applicant only wants to live in it for a temporary period of 4 or 5 years. The site is within an area the DFI Rivers have advised is a flood plain for a 1 in 100 year flood event, the applicant is an elderly gentlemen and has never seen the site flooding. It would be costly to produce a Flood Risk Assessment and the applicant is unlikely to provide this.

No information has been submitted since the deferral meeting to provide any further information about the applicants farming case or to demonstrate the site sits outside any flood plain. Members are advised there are a number of invoices for buying feed bin, railings and grid supply(possibly cattle grid) from McLaughlin Engineering from 2015 to 2020, invoices for round silage bales from G&C McGahan from 2015 to 2020, receipts from Shane Campbell for hay bales from 2014 to 2020 and details that the farm business id was issued for a cat 3 farm on 16 March 2022. While the recent allocation of a DAERA Business ID gives some indication that farming is currently active, it has not been demonstrated the business has been ongoing for the required 6 years. I agree with the original assessment that some receipts and invoices are on a general template and do not convince me they are contemporaneous for the works carried out..

It is also submitted the applicant is a Lough Neagh Brown Eel fisherman and has licenses issued by DEARA from 2009 until 2021. Members will be aware there is a proposed policy in the Draft Plan Strategy which relates to Lough Neagh fishermen, that said the policy is in draft form and cannot currently be relied on when make decisions on applications.

The proposed dwelling is a prefabricated building and the applicant only wishes to reside here for 4 – 5 years. There is nothing in the policy that would support this proposal with temporary dwellings only permissible for a short period of time (up to 3 years) where a site has planning permission and the development is ongoing in accordance with an approval or there are compelling and site specific reasons to have it here. No new information has been provided to a make any additional case for this dwelling on a site specific basis. Members are advised that temporary buildings of this nature are not in keeping with the design guide and they are not particularly appropriate in the countryside.

DFI Rivers Maps show the site within a 1 in 100 year flood event. There are some categories of development which may be permitted in these areas however a dwelling is not one of these categories. The policy does not allow for infilling to raise development out of a flood area as this is moving the problem elsewhere and could result in someone else's property being flooded due to the displacement of flood water. A hydrological report for this area is likely to be a very costly due to the extensive nature of it as it would be modeling the entire Lough Neagh basin.





As there has been no new information presented to justify this proposal and it is in a flood plain I recommend planning permission is refused.

Reasons for Refusal:

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the design of the dwelling is of a temporary nature and does not reflect the traditional pattern of settlement in the area.

**Signature(s)**

**Date:**

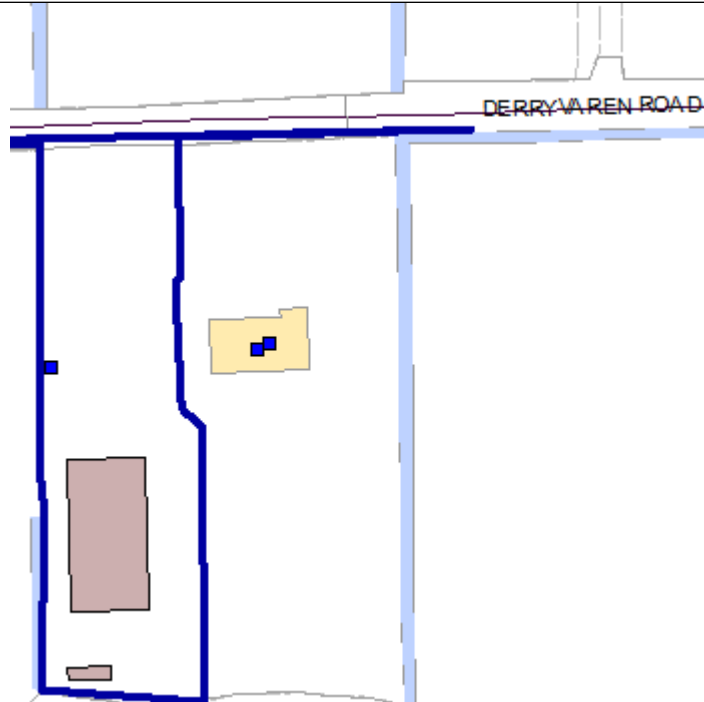


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 September 2022	<b>Item Number:</b> 5.28
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> 27 May 2022
<b>Proposal:</b> Retrospective application for the retention of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DAERA - Omagh	Substantive: TBC
	Rivers Agency	Substantive: TBCResponseType: FR

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.

There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a mobile home which is the subject of this application and a shed to the rear.

### **Description of Proposal**

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

M/2010/0538/F - Proposed domestic garage - Lands adjacent to 62 Derryvarren Road, Coalisland - Permission Granted 15.04.2011. This is the shed to the rear of the mobile home

Site across the road

M/2008/0554/F – Proposed domestic store for the storage of fisherman's boat car, turf & household utilities - To the rear of 62 Derryvarren Road, Coalisland - Permission Granted – 14.10.2009

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

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

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

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA have confirmed in their consultation response that the farm business has not been in existence for over 6 years and the farm business is category 3. The DAERA ID was only allocated on the 16<sup>th</sup> March 2022 even-though the applicant states on the P1C form the farm business was established more than 6 years. DAERA state there are no subsidies being claimed at the site by an farm business. The applicant is Mr James Campbell who lives at 59 Derryvaren Road in the mobile home currently on site. The applicant has submitted the following evidence to substantiate claims that the farm business has been active for the past 6 years.

Invoices from SC Groundworks for

1. Ground Maintenance on the 7<sup>th</sup> March 2018

2. Site Clearance on the 12<sup>th</sup> August 2015
3. Installation of septic tank on 7<sup>th</sup> November 2014
4. Installation of pipes on 19<sup>th</sup> October 2020
5. Levelling of stone on the 15<sup>th</sup> February 2020
6. Preparation of ground on the 17<sup>th</sup> July 2020
7. Drain Cleaning on the 11<sup>th</sup> August 2019
8. Installation of sewage pipe on the 25<sup>th</sup> September 2018
9. Laying of concrete on the 14<sup>th</sup> August 2017

Evidence from DAERA for a fishing licence registered to Mr James Campbell from the 3<sup>rd</sup> August 2021 to 31<sup>st</sup> December 2021.

A brown eel fishing permit for James Campbell valid from 1<sup>st</sup> May 2021.

Invoices from MacLaughlin Engineering for

1. A feeding bin on the 1<sup>st</sup> February 2020
2. Railings on the 6<sup>th</sup> April 2018
3. Grid Supply on the 20<sup>th</sup> June 2015

Invoices from Shane Campbell Hay and Straw Sales at 55 Derryvaren Road, Coalisland for

1. 4 Hay Bales on 1<sup>st</sup> December 2017
2. 4 Hay Bales on 7<sup>th</sup> December 2016
3. 4 Hay Bales on 3<sup>rd</sup> December 2015
4. 4 Hay Bales on 5<sup>th</sup> December 2014
5. 4 Hay Bales on 5<sup>th</sup> December 2020
6. 4 Hay Bales on 4<sup>th</sup> December 2019
7. 4 Hay Bales on 3<sup>rd</sup> December 2018

Invoices from G & C McGahan for

1. 2 round bale silage on 3<sup>rd</sup> December 2015
2. 2 round bale silage on 28<sup>th</sup> November 2016
3. 2 round bale silage on 28<sup>th</sup> September 2017
4. 2 round bale silage on 18<sup>th</sup> December 2018
5. 2 round bale silage on 13<sup>th</sup> November 2019

## 6. 2 round bale silage on 22<sup>nd</sup> September 2020

The invoices from Shane Campbell and G & C McGahan which relate to farming activity at the site are a Word format and not a named invoice from a company so it is difficult to ascertain the validity of these receipts. The only land the applicant has shown in blue on the site location plan is one field immediately west of the site. Google maps image from May 2022 appear to show the grass at the field has been cut and maintained. On the basis of the evidence provided I am not content there is an active and established farm business at the site for the past 6 years. The invoices from SC Groundworks relate to the mobile home and do not show that there is active farming at the site.

I completed a check of histories on the fields provided and no sites have been sold off from the farm holding within the past 10 years.

The only building on the site is a shed to the rear of the mobile which was granted approval under M/2010/0538/F as a domestic garage. I completed a check on Spatial NI orthophotography and the shed was on site on the 6<sup>th</sup> July 2013. I am content the shed has been on site for over 5 years and is a building can be used to cluster with. However as there is only one building on site within the farm business I do not consider there is a group of farm buildings to cluster or visually link with.

Overall, I am of the opinion the proposal does not meet the criteria in CTY 10 for a dwelling on a farm.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

There are established trees and mature hedging along the east and west boundaries which will assist in the integration of the building into the landscape.

I have no concerns about the new access as it runs for a short distance through the middle of the site.

The building to be retained is a mobile home which is in not appropriate for a dwelling in the countryside. Mobile homes are normally only allowed on site for a temporary period agreed with the Council pending the construction of a dwelling.

Overall, I consider this dwelling would not integrate into the landscape due to the design of the building.

### **CTY 14 – Rural Character**

I consider the mobile home does not reflect the traditional pattern of settlement in the area. Mobile buildings should only be on land in the countryside for a temporary period and are unacceptable as a rural dwelling. I am of the opinion mobile buildings have an unacceptable impact on rural character and are visually prominent.

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

#### **Policy AMP 2 – Access to Public Roads**

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not

prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposal is to retain new access at the site. DFI Roads were consulted as the statutory authority and responded with no concerns subject to visibility splays of 2.4m x 70m in both directions. I am content the new access will not prejudice road safety.

The site does not access onto a protected route so there are no concerns.

### **PPS 15 – Planning and Flood Risk**

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

Rivers Agency confirmed the application site is within the Q100 flood plain. As the proposal is for a farm dwelling it does not meet the criteria to be considered an exception in FLD 1.

There are no other watercourses abutting the site so consideration of other FLD's in the policy is not necessary.

#### **Other Considerations**

The site is within Lough Neagh and Lough Beg Ramsar Site but due to the distance from Lough Neagh I am content the proposal is sufficiently removed from the Ramsar for there not to be an unacceptable impact on it.

I have completed checks on the statutory ecological and built heritage map viewers and there are no other issues at the site.

#### **Neighbour Notification Checked**

**Yes/No**

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

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 1**

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

##### **Reason 2**

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the



Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

**Reason 3**

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

**Reason 4**

Contrary to CTY 14 - Rural Character in PPS 21 in that the development does not reflect the traditional pattern of settlement in the area.

**Signature(s):** Gillian Beattie

**Date:** 17 August 2022

<b>ANNEX</b>	
<b>Date Valid</b>	1 April 2022
<b>Date First Advertised</b>	12 April 2022
<b>Date Last Advertised</b>	12 April 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  63 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  62 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  61 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  64 Derryvaren Road Coalisland Tyrone BT71 4QP  The Owner / Occupier  59 Derryvaren Road, Coalisland, Tyrone, BT71 4QP</p>	
<b>Date of Last Neighbour Notification</b>	28 April 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
<p>DFI Roads - Enniskillen Office-Substantive: TBC  DAERA - Omagh-Substantive: TBC  Rivers Agency-Substantive: TBCResponseType: FR</p>	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1065/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> 50 Metres South Of 37 Moor Road Coalisland
<b>Applicant Name and Address:</b> Niall And Mary Kilpatrick 37 Moor Road Coalisland BT71 4QB	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application is for a dwelling on a farm. Flood maps indicate the site floods, a Flood Risk Assessment has been provided which Rivers have assessed and agree does not have flood risk, siting beside buildings on a farm and has met the requirements for a dwelling on a farm.	
<b>Summary of Consultee Responses:</b> DFI Rivers - FRA provided, shows site is not subject to flooding, Rivers do not disagree with this DFI Roads – recommend to approve with conditions NIEA – request Preliminary Ecological Survey SES – may impact on RAMSAR as hydrological link, suggest condition to mitigate against impact DEARA –business id supplied is category 3 and was allocated 31/03/2022, not entitled to claim	
<b>Characteristics of the Site and Area:</b>  The site lies in the rural countryside approx. 370 metres south of the settlement limits of Annaghmore as depicted by the Dungannon and South Tyrone Area plan 2010; and	

approx. 100m north of Coalisland canal.

The site is a relatively flat square shaped plot cut from a much larger agricultural field that runs along the south side and to the rear / east side of the applicant's home no. 37 Moor Rd, an existing single storey detached roadside dwelling with ancillary detached garage and large domestic store.

It is cut from the middle of the host field to the south side of no. 37. Whilst the host field has a frontage onto the public Moor Rd the site is set back approx. 30 metres from the Moor Rd, which it is to be accessed off via the existing access and driveway serving no. 37 Moor with alteration.

The site lacks long established boundaries and is open on all sides with the exception of its party northern party boundary with no. 37 Moor Rd defined by a line of trees and a few trees along the southern boundary. The roadside frontage of the host field is also undefined.

Critical views of the site are open from the Moor Rd on the southern approach to it from the Moor Bridge over the Coalisland Canal and passing along its roadside frontage. Views of the site are screened on the northern approach along Moor Rd by existing development immediately to its north including no. 37 Moor Rd and no. 39 Moor Rd a large two storey hipped roofed dwelling with large sheds to its rear / east side. Whilst the surrounding area is primarily rural in nature with agricultural lands running to the south and east of the site in addition to the development immediately north of the site some further development, namely detached dwelling but including GEDA Construction, Civil Engineering, and Development company, in existence to the opposite side of the road to the site running towards Moor Bridge.

#### **Description of Proposal**

This is an outline application for a proposed dwelling and garage under Policy CTY10 of PPS21 to be located on lands 50 Metres South of 37 Moor Road Coalisland.

#### **Deferred Consideration:**

This application was before the Planning Committee in March 2023 where it was deferred for a meeting with the Service Director for Planning. At the meeting on 24 March 2023 it was indicated that flooding had been dealt with under a different application and the agent agreed to provide additional information to demonstrate this. Discussions around the potential clustering of development was for further assessment.

A Flood Risk Assessment was submitted for this application site and the immediate area, it provides a more detailed assessment of the hydrology here. It considered the Torrent River and the Coalisland Canal and flows between them and concluded this site does not flood The report was submitted to and assessed by DFI Rivers, who have advised they have no reason to disagree with the conclusions.. DFI Rivers have advised that a freeboard is added to any finished floor level to ensure the new development is well out of any risk areas. This is a matter for the applicant to be aware of and I do not consider it necessary to attach a condition requiring this. In light of DFI Rivers response it is clear the site does not flood and the site proposed is not subject to FLD1 policy.

The previous report set out the considerations about the active and established farm here and it has been accepted this meets all the criteria set out in CTY10. Concerns were raised about the potential of the site to integrate a new dwelling and garage and that it would result in Ribbon Development along Moor Road. Members are advised that CTY13 and CTY14 are considerations for a dwelling as a exception within CTY10 and where it

meets the criteria for a dwelling in a farm then it may be approved. Any development on this site will be screened from views from the north by the existing dwelling and buildings on that side of it. The views from the south are limited to just past the turn in to the car park and bridges over the Torrent River and Coalisland Canal. From here any new dwelling would be seen and cluster with the existing group of buildings on the farm (a bungalow, garage and shed). The existing trees in the foreground would help to integrate a new dwelling here, especially if it is low elevation, similar to the neighbouring property and additional landscaping is provided to augment the existing scheme. (Fig 1)

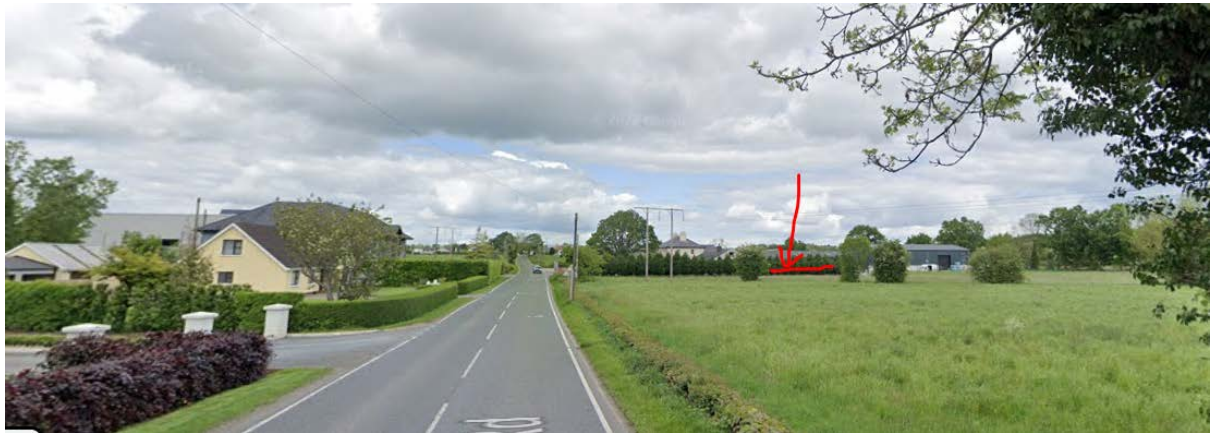


Fig 1 – site identified in red on approach from south, group of buildings to the rear

It is also noteworthy that flood maps identify the front part of the applicants land here as being subject to surface water flooding and some flooding is also identified to the south side. The flood risk assessment still shows this as being the case with the proposed site not located in any area that floods or is subject to ponding. I consider this prevents the applicants from siting anywhere else on their farm and will prevent any development to the front of any proposed dwelling so that it may remain as a field or could become a garden for any dwelling here.

NIEA have requested a Preliminary Ecological Appraisal to be carried out as they have assessed the proposal as close to trees, scrublands and a watercourse that links to Lough Neagh. Access to the site will require removal of some conifers which I do not consider have any particular ecological value, an existing hedge line can be conditioned to be retained at the side of the site and the land is improved grassland with little ecological value. Their response goes on to suggest mitigation measures to ensure the septic tank and soakaways do not come within 10 metres of any watercourse thereby mitigating any impacts on Lough Neagh. The location of the septic tank and soakaway can be dealt with at Reserved Matters stage and I consider a condition will adequately deal with this. I do not consider one additional dwelling here would have such a significant impact on designated features of Lough Neagh. it is necessary to request this information.

In my opinion the proposal meets the requirements of CTY10 and there is sufficient mitigation available to ensure the proposal is unlikely to have any significant impacts of Lough Neagh. I recommend the application is approved.

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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. The dwelling hereby approved shall have a ridge height not exceeding 6.5m above the finished floor level of the dwelling.

Reason: To ensure the development integrates into the landscape.

4. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 120.0m in both directions and a 120.0m forward sight line, shall be provided in accordance with the 1:500 site plan submitted and approved at reserved matters stage. 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.

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

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

6. At Reserved Matters stage a suitable and clearly defined buffer of at least 10 m shall be identified between the location of all refuelling, storage of oil/fuels, concrete

mixing and washing areas, storage of machinery/materials/spoil etc. and all open field drains/watercourses within and surrounding the application site. The buffer shall be provided prior to commencement of any development and maintained for the duration of on site construction works.

Reason: To ensure the project will not have an adverse effect on the integrity of Lough Neagh & Lough Beg RAMSAR/SPA.

7. At Reserved Matters stage a suitable and clearly defined buffer of at least 10 m shall be identified between the location of any septic tank, its soakaways and discharge point and all open field drains/watercourses within and surrounding the application site. The buffer shall be provided prior to commencement of any development and shall be permanently maintained. Discharges from the septic tank or soakaways shall not be directed towards any watercourse.

Reason: To ensure the project will not have an adverse effect on the integrity of Lough Neagh & Lough Beg RAMSAR/SPA.

**Signature(s)**

**Date:**



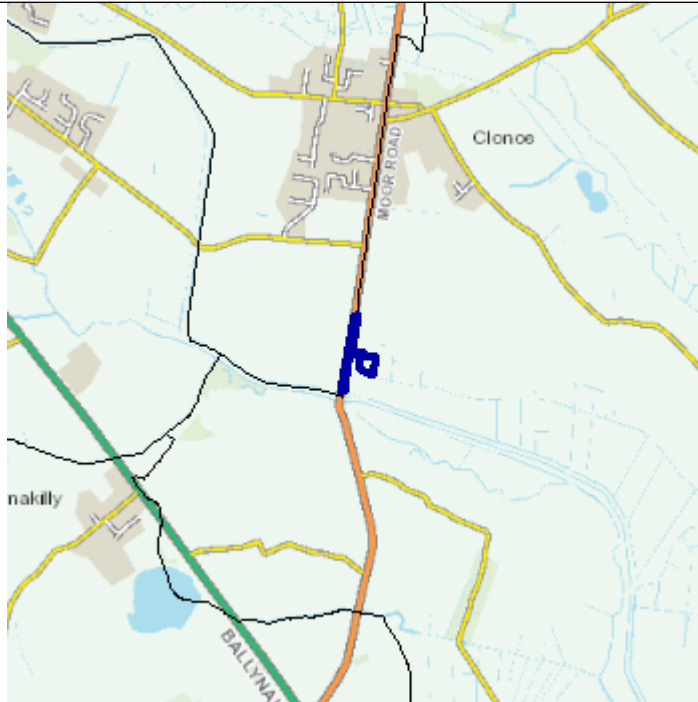


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 March 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2022/1065/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> Dwelling and Garage Under Cty 10	<b>Location:</b> 50 Metres South Of 37 Moor Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Niall And Mary Kilpatrick 37 Moor Road Coalisland BT71 4QB	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NIEA	PRT - LA09-2022-1065-O.PDF
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1502-F HRA.pdf
Non Statutory Consultee	DAERA - Omagh	See uploaded document LA09-2022-1065-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	Rivers Agency	496681 FINAL.pdf
Non Statutory Consultee	Shared Environmental Services	LA11-2022-1065-O Reconsult request letter.pdf
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1065-O - HRA.pdf
Non Statutory Consultee	Shared Environmental Services	

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0

Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues**

**Characteristics of the Site and Area**

The site lies in the rural countryside approx. 370 metres south of the settlement limits of Annaghmore as depicted by the Dungannon and South Tyrone Area plan 2010; and approx. 100m north of Coalisland canal.

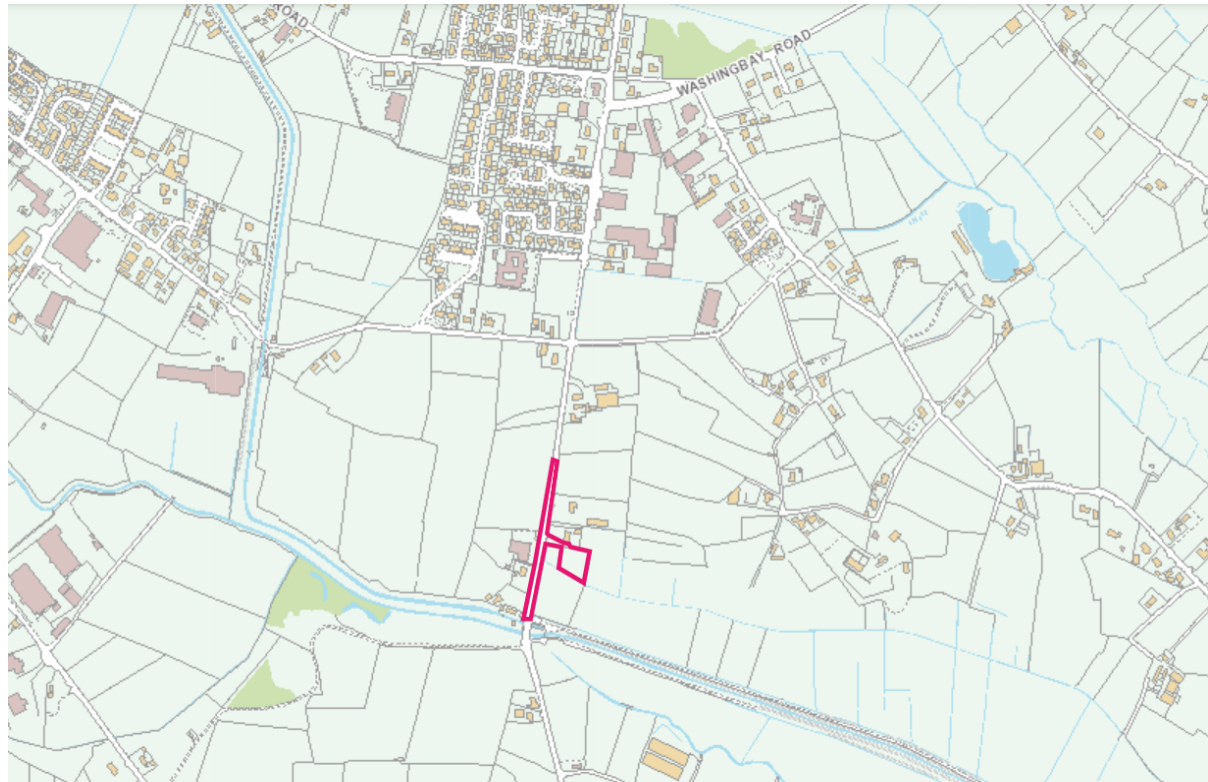


Fig 1: Site outlined red

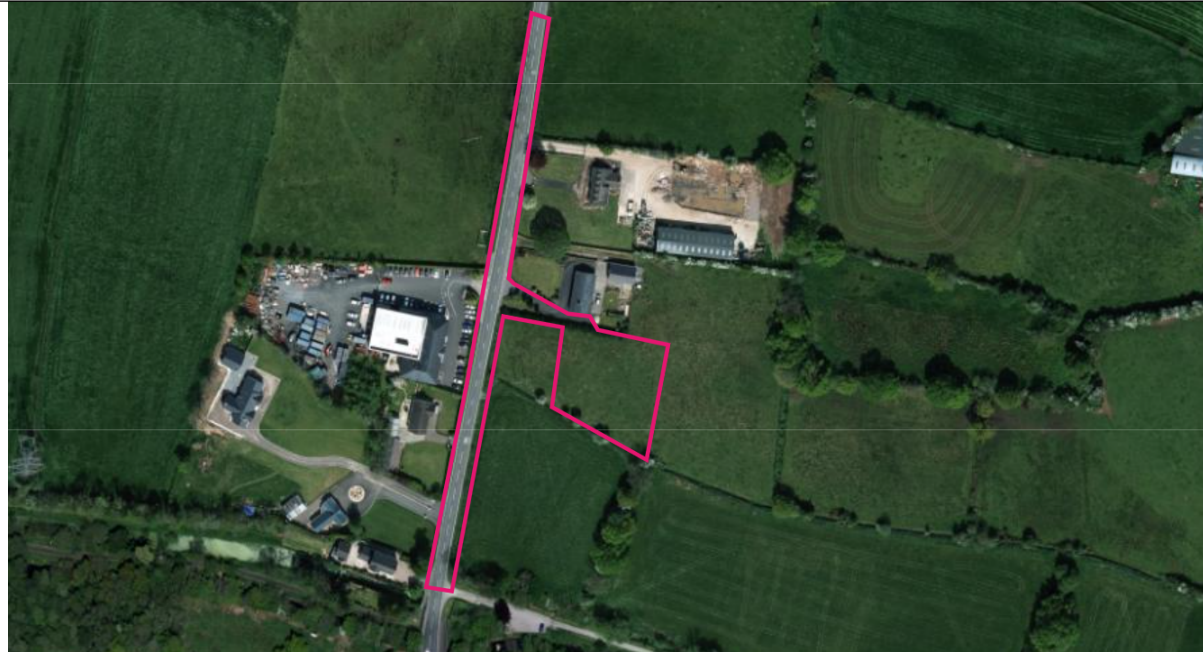


Fig 2: Site outlined red

The site is a relatively flat square shaped plot cut from a much larger agricultural field that runs along the south side and to the rear / east side of the applicant's home no. 37 Moor Rd, an existing single storey detached roadside dwelling with ancillary detached garage and large domestic store.

It is cut from the middle of the host field to the south side of no. 37. Whilst the host field has a frontage onto the public Moor Rd the site is set back approx. 30 metres from the Moor Rd, which it is to be accessed off via the existing access and driveway serving no. 37 Moor with alteration.

The site lacks long established boundaries and is open on all sides with the exception of its party northern party boundary with no. 37 Moor Rd defined by a line of trees and a few trees along the southern boundary. The roadside frontage of the host field is also undefined.

Critical views of the site are open from the Moor Rd on the southern approach to it from the Moor Bridge over the Coalisland Canal and passing along its roadside frontage. Views of the site are screened on the northern approach along Moor Rd by existing development immediately to its north including no. 37 Moor Rd and no. 39 Moor Rd a large two storey hipped roofed dwelling with large sheds to its rear / east side.

Whilst the surrounding area is primarily rural in nature with agricultural lands running to the south and east of the site in addition to the development immediately north of the site some further development, namely detached dwelling but including GEDA Construction, Civil Engineering, and Development company, in existence to the opposite side of the road to the site running towards Moor Bridge.

## Description of Proposal

This is an outline application for a proposed dwelling and garage under Policy CTY10 of PPS21 to be located on lands 50 Metres South of 37 Moor Road Coalisland.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 2: Natural Heritage  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 15: Planning and Flood Risk  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Planning History**

- M/1982/00220 - Erection of bungalow - Moor Road Coalisland - Granted
- M/1982/002201 - Erection of bungalow - Moor Road Coalisland - Granted
- M/1998/0475 - Domestic garage general purpose store for domestic purposes only - 37 Moor Road Coalisland - Granted
- LA09/2020/1089/F - Proposed domestic store - To the rear of 37 Moor Road Coalisland - Granted 4<sup>th</sup> March 2021

### **Consultees**

1. Dfl Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and advised the farm business stipulated on the P1C Form accompanying the application has not been in existence for more than 6 years. It was established on the 31/03/2022 and has a category 3 status that is not entitled to claim land payments. Furthermore, no payments on this site have been claimed by any business in the current year.
3. River's Agency (River's) were consulted as Flood Maps NI indicated the site was located within the fluvial floodplain and bound by a watercourse. River's responded as follows from a drainage and flood risk aspect under PPS15 (Revised) Planning and Flood Risk, Policy:
  - *FLD1 Development in Fluvial Flood and Coastal Plains* - The Strategic Flood Map indicates the site lies entirely within the 1 in 100year fluvial flood plain. The policy states 'Development will not be permitted within the 1 in 100 year fluvial flood plain (AEP7 of 1%) unless the applicant can demonstrate that the proposal constitutes an exception to the policy. Where the principle of development is accepted by the planning authority through meeting the 'Exceptions Test', the applicant is required to submit a Flood Risk Assessment (FRA) for all proposals. Planning permission will only be granted if the FRA demonstrates that: a) All sources of flood risk to and from the proposed development have been identified; and b) There are adequate measures to manage and mitigate any increase in flood risk arising from the development.
  - *FLD2 Protection of Flood Defence and Drainage Infrastructure* – the application is affected by a designated open watercourse. Policy requires a 5m to 10m level maintenance strip along the watercourse. The applicant MUST contact the relevant local DFI Rivers area office to establish their maintenance needs and then mark the agreed maintenance strip on a drawing along with cross sections to demonstrate that it is level, free from obstructions and has access and egress points etc.
  - *FLD3 Development and Surface Water* - A Drainage Assessment isn't triggered by the policy but the development is located within a predicted flooded area as indicated on the Surface Water Flood Map. In such cases the policy states that it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

With regard to the above, specifically bullet point 1, Planning does not deem this proposal an exception under Policy FLD 1 of PPS15 therefore it is contrary to Policy FLD 1 of PPS15 and the additional information required i.e. FRA has not been requested. The principle of this development has not been established.

4. Shared Environmental Services were consulted on this application as the site is

located within a floodplain and bound by a watercourse therefore there could be a potential hydrological link to Lough Neagh and Lough Beg Ramsar Site/Lough Neagh and Lough Beg SPA. SES considered the proposal in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) on behalf of Mid Ulster District Council. Following an appropriate Habitats Regulations Assessment (HRA) in accordance with the Regulations SES advised having considered the nature, scale, timing, duration and location of the project it would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects subject to the following mitigation measures being conditioned in any approval:

- A suitable and clearly defined buffer of at least 10m must be maintained between the location of all refuelling, storage of oil/fuels, concrete mixing and washing areas, storage of machinery/materials/spoil etc. and all identified open field drains/watercourses within/surrounding the application site.

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

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by SES. The mitigation measures considered reasonable could be conditioned.

5. NIEA – were consulted further to consultation with Shared Environmental Services who advised the proposal is hydrologically connected to Lough Neagh and Lough Beg Ramsar Site/Lough Neagh and Lough Beg SPA and a likely significant effect on these sites cannot be discounted. NIEA responded as follows: *Water Management Unit* - raised no objections to the proposal referring to DAERA Standing Advice for single dwellings containing standard conditions and informatives.

*Natural Environment Division (NED)* - considered the impacts of the proposal on designated sites and raised no concerns subject to the conditions below to ensure there is no degradation of the adjacent aquatic environment from contaminated runoff resulting during construction and operational works, which I consider reasonable:

- A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc and the watercourse.
- There must be no discharges from the septic tank or soakaway towards the any watercourse; a buffer of 10m must be maintained between the septic tank and soakaway and any watercourse.

NED also provided preliminary ecological advice in relation to other natural heritage concerns including that a Biodiversity Checklist be used to establish if any ecological surveys are required for a complete application and to enable NED to carry out a more detailed assessment.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required in relation to other natural heritage (Biodiversity Checklist) has not been requested.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 'Development in the Countryside'. The applicant has applied under one of these instances a dwelling on a farm under Policy CTY 10 of PPS 21.

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

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

As detailed further above Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and advised the farm business stipulated on the P1C Form accompanying the application has not been in existence for more than 6 years. It was established on the 31/03/2022 and has a category 3 status that is not entitled to claim land payments and no payments on this site have been claimed by any business in the current year.

The above said alongside this application the agent submitted a letter from DEARA dated 22<sup>nd</sup> April 2022 to the applicant advising they had been allocated a sheep flock number. A number of invoices and receipts ranging from 2015 through every year until 2022 when DEARA advised the business was established but not entitled to claim lands payments and the sheep flock number was allocated. The invoices to the applicant include for works such as hedge cutting, sowing fertiliser, bailing and wrapping hay, slurry spreading, and for fencing materials. Receipts from the applicant were for the sale of bales. Accordingly, I am reasonably content that it has been demonstrated that the farm business has been active and established for over 6 years. Criterion (1) of CTY 10 has been met.

- no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application or since PPS 21 was introduced on 25th November 2008,



I have checked the farm maps associated with the application and there is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the applicant's farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.

- the new building is visually linked or sited to cluster with an established group of buildings on the farm.

A dwelling on this site would visually link and cluster with the applicant's home no. 37 Moor Rd, a single storey detached dwelling with ancillary detached garage and large domestic store located immediately to the north of the site. And as such Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character. I am not content that a dwelling on the site would visually integrate into the surrounding landscape without causing a detrimental change to the rural character of an area in accordance with CTY 13 and 14. I consider the site lacks sufficient long established natural boundaries to provide a suitable degree of enclosure for the dwelling and garage to integrate into the landscape. I consider a dwelling and garage on this relatively open and exposed site would if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside. Whilst the vegetation and development to the north of the site will provide a backdrop to views on the southern approach along Moor Rd, when passing the frontage of the host field the building will have no substantial backdrop to aid its integration.

This proposal in my opinion would also be contrary to Policy CTY 8 of PPS 21 in that when travelling along the Moor Rd it would extend an existing ribbon of development with a common frontage onto the road further south. The existing ribbon of development immediately to the north of the site includes no. 37 Moor Rd, an existing single storey detached roadside dwelling with ancillary detached garage and large domestic store located to its rear; and no. 39 Moor Rd a large two storey hipped roofed dwelling with large sheds to its rear / east side.

Bearing in mind all of the above. As the principle of this development has not been established under Policy FLD 1 of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy, a FRA has not been requested. Additional information to demonstrate a dwelling could integrate on the site without causing a detrimental change to the rural character of the area has also not been requested. Nor has any additional information to address the issues raised by NIEA or SES (see 'Consultees' above).

#### Additional considerations

I had some concerns regarding the shared access arrangements impacting the amenity of the neighbouring property to the north in terms of overlooking however this is the

applicant's home and I consider these concerns could have been overcome through careful design had the site been acceptable in principle.

In addition to checks on the planning portal Historic Environment Map (HED) map viewer available online has been checked and identified no built heritage assets of interest on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

**Reason 2**

The proposal is contrary to Policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that proposal does not meet all the requirements of Policies CTY 13(a-f) and CTY 14.

**Reason 3**

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

**Reason 4**

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

**Reason 5**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the new buildings would, if permitted add to ribbon development along the Moor Rd.

**Signature(s):** Emma Richardson

**Date:** 22 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	24 June 2022
<b>Date First Advertised</b>	18 August 2022
<b>Date Last Advertised</b>	7 July 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 39 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 36 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 34A Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 37 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 34 Moor Road Coalisland Tyrone BT71 4QB</p> <p>The Owner / Occupier 32 Moor Road Coalisland Tyrone BT71 4QB</p>	
<b>Date of Last Neighbour Notification</b>	15 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1976/0324 Proposals: IMPROVEMENTS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/1975/0358 Proposals: IMPROVEMENTS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/1994/0142 Proposals: Extension to dwelling Decision: PG Decision Date:</p>	

Ref: M/2001/1165/F

Proposals: Proposed extension and alterations to existing dwelling to provide two storey accommodation.

Decision: PG

Decision Date: 17-JAN-02

Ref: M/1978/0808

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: LA09/2021/0155/O

Proposals: Proposed infill dwelling

Decision: PG

Decision Date: 27-APR-21

Ref: LA09/2016/0902/F

Proposals: Proposed relocation of existing approval LA09/2015/0489/RM

Decision: PG

Decision Date: 27-OCT-16

Ref: M/1979/0577

Proposals: HOUSING DEVELOPMENT

Decision: PR

Decision Date:

Ref: M/2009/0688/F

Proposals: Retention of existing agricultural shed and retention of existing access.

Decision: PG

Decision Date: 27-JAN-10

Ref: M/1979/0772

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: M/2011/0198/F

Proposals: Additional electrical plant and equipment installation, control room inside the existing sub-station site. Overhead electrical transmission lines detailed in Form P1.

Decision: PG

Decision Date: 08-DEC-11

Ref: M/1984/050401

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: M/1984/0504

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: M/2001/1045/RM

Proposals: Proposed Industrial Unit/Offices/Carparking Facilities

Decision:

Decision Date:

Ref: M/2004/0873/F

Proposals: proposed erection of light engineering workshop & office accommodation

Decision: PG

Decision Date: 09-NOV-04

Ref: LA09/2020/1099/F

Proposals: Retention of 2.4m high security fence, hard standing & floodlighting.

Decision: PG

Decision Date: 28-JAN-21

Ref: LA09/2020/0124/LDP

Proposals: Proposed provision of an external fire escape from existing canteen

Decision: PG

Decision Date: 30-JUL-20

Ref: M/2001/0557/O

Proposals: Erection of Light Industrial Workshop

Decision: PG

Decision Date: 20-AUG-01

Ref: LA09/2015/0489/RM

Proposals: Proposed Dwelling and Domestic Garage on Infill Site

Decision: PG

Decision Date: 01-DEC-15

Ref: LA09/2021/1685/RM

Proposals: Proposal infill dwelling.

Decision: PG

Decision Date: 05-APR-22

Ref: M/2014/0106/PREAPP

Proposals: Proposed infill site for dwelling

Decision: ELR

Decision Date: 21-AUG-14

Ref: M/2014/0416/O

Proposals: Proposed dwelling and domestic garage on an infill site

Decision: PG

Decision Date: 21-JAN-15

Ref: M/2004/0652/F

Proposals: Proposed alterations to previously approved plan of warehouse and offices

M/2002/1375/F

Decision:

Decision Date:

Ref: M/1998/0475

Proposals: Domestic Garage General Purpose Store for domestic purposes only

Decision: PG

Decision Date:

Ref: LA09/2020/1089/F

Proposals: Proposed domestic store

Decision: PG

Decision Date: 04-MAR-21

Ref: M/2008/0169/F

Proposals: Proposed replacement creche at 10m east of No 39 Moor Road, Coalisland

Decision: PR

Decision Date: 15-MAY-09

Ref: LA09/2022/1065/O

Proposals: Dwelling and Garage Under Cty 10

Decision:

Decision Date:

Ref: M/1977/0056

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: M/1980/0636

Proposals: ALTERATIONS TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2018/0353/F

Proposals: Replacement dwelling

Decision: PG

Decision Date: 04-JUL-18

Ref: M/2002/1375/F

Proposals: Proposed change of access to previously approved application for light industrial unit.

Decision: PG

Decision Date: 27-FEB-03

Ref: M/1982/0022

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: M/1982/002201

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: M/1999/0863/O

Proposals: Dwelling House and Domestic Garage

Decision: PG

Decision Date: 18-FEB-00

Ref: M/1996/0771

Proposals: Egg Packing and Processing Unit

Decision: PG

Decision Date:

Ref: M/2002/0362/F

Proposals: Proposed industrial unit with ancillary offices/car parking facilities

Decision: PG

Decision Date: 10-OCT-02

### **Summary of Consultee Responses**

NIEA-PRT - LA09-2022-1065-O.PDF

Shared Environmental Services-LA09-2022-1502-F HRA.pdf

DAERA - Omagh-See uploaded documentLA09-2022-1065-O.DOCX

DFI Roads - Enniskillen Office-

Rivers Agency-496681 FINAL.pdf

Shared Environmental Services-LA11-2022-1065-O Reconsult request letter.pdf

Shared Environmental Services-LA09-2022-1065-O - HRA.pdf

Shared Environmental Services-



**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1277/F <b>Recommendation:</b> Refuse	<b>Target Date:</b> 29 November 2022
<b>Proposal:</b> PROPOSED NEW INFILL DWELLING AND DETACHED DOMESTIC GARAGE	<b>Location:</b> Lands Approx 7M East Of 20 Ballymacpeake Road Portglenone
<b>Applicant Name and Address:</b> Mr FEARGAS QUINN 20 BALLYMACPEAKE ROAD PORTGLENONE BT44 8LW	<b>Agent Name and Address:</b> Mr JOE DIAMOND 77 MAIN STREET MAGHERA BT46 5AB
<b>Summary of Issues:</b>  The application was presented to Members as a refusal at January 2023 Planning Committee. The proposal was deemed to be contrary to policies CTY 1 and CTY 8 of PPS 21. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 8 <sup>th</sup> February 2023. At the meeting it was suggested that the agent/applicant consider an annex onto the side of the adjacent dwelling which is within family ownership as this was a more policy compliant option. To date, no changes to the proposal have been submitted. As such, the proposal is before Members again with a recommendation to refuse.	
<b>Summary of Consultee Responses:</b>  No consultations were issued to inform this deferred consideration	
<b>Description of Proposal</b>  This is a full application for a proposed new dwelling and domestic garage the site is identified as land Approx. 7M East Of 20 Ballymacpeake Road, Portglenone	

**Deferred Consideration:**

The application proposes to erect a standalone dwelling in the garden of no. 20 Ballymacpeake Road. In the absence of the submission of an alternative solution, as suggested at the deferred office meeting, this proposal is being considered primarily under Policies CTY 1 and CTY 8 of PPS 21.

CTY 8 states that planning permission will be refused for a building which creates or adds to ribbon development. However an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern. This proposal is relying on dwellings no. 20, 20a and 22 Ballymacpeake Road as being a continuous line of buildings along a common frontage. I would agree with the original case officer that this is not the case. The 3 dwellings all have different frontages. As such, the site can not be considered as a gap in line with the provisions of CTY 8.

Policy CTY 1 sets out that an extension to a dwelling house can be considered under Policy EXT 1 of the Addendum to PPS 7. This policy also provides for ancillary living accommodation in certain circumstances. At the deferred office meeting it was suggested that as no. 20 was in family ownership that consideration would be given a granny annex/ancillary living accommodation which would be linked someway to number 20. This option was never taken up by the applicant. Adequate time has been given to the applicant to consider this option and in the absence of a revised scheme, the application currently before Members tonight has to be decided.

It is recommended that Members refuse the application as it fails to meet the provisions of CTY 1 and CTY 8 of PPS 21

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not located within a gap along a continuous and built up frontage.

**Signature(s):**Karla McKinless

**Date:** 19 October 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 January 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2022/1277/F	<b>Target Date:</b> 29 November 2022
<b>Proposal:</b> PROPOSED NEW INFILL DWELLING AND DETACHED DOMESTIC GARAGE	<b>Location:</b> Lands Approx 7M East Of 20 Ballymacpeake Road Portglenone
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr FEARGAS QUINN 20 BALLYMACPEAKE ROAD PORTGLENONE BT44 8LW	<b>Agent Name and Address:</b> Mr JOE DIAMOND 77 MAIN STREET MAGHERA BT46 5AB
<b>Executive Summary:</b>  To Committee - Refusal - Contrary to CTY 1 and 8 of PPS 21.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full & RM Resp.docx

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 8 of PPS 21.

### Characteristics of the Site and Area

The site is approximately 2.4km west of the development limits of Clady, as such the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site has been identified as lands Approx. 7M East Of 20 Ballymacpeake Road, Portglenone,

in which the site lies in part of the garden area for No.20 Ballymacpeake Road. I note that the site intends to use the same access as No.20. I note that the immediate and surrounding area is characterised by residential development, with the wider setting being characterised by agricultural land uses.

#### Representations

Four neighbour notifications were sent out however one objection was received in connection with this application.

### **Description of Proposal**

This is a full application for a proposed new dwelling and domestic garage the site is identified as land Approx. 7M East Of 20 Ballymacpeake Road, Portglenone

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

#### **Policy Consideration**

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside; and

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

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

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However an exception will be permitted for the

development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. The agent is relying on dwellings Nos 20, 20a and 22 Ballymacpeake Road to be able to constitute as a continuous line of buildings along a common frontage. Taking each separately I note the following;

- No. 20 fronts onto a private laneway off the Ballymacpeake Road with no common frontage to the Ballymacpeake Road. (Figure 1)
- No.20s front onto a different private laneway off the Ballymacpeake Road with no common frontage to the Ballymacpeake Road. (Figure 1)
- Finally, No.22 does front and share a common frontage to the Ballymacpeake Road. (Figure 2)



Figure 1





Figure 2

With this in mind I hold the view that the application has failed to demonstrate that there is a line of three buildings along a common frontage. I note that the three dwellings around the site all have different frontages and would not comply under this part of the policy. In terms of the gap, I note that this is sufficient for only one dwelling which has been applied in line with this part of the policy. From such I hold the view that the application has failed to demonstrate compliance under CTY 8.

I referred the issues to the agent with regards to this policy and confirmed that this was the only case under CTY 1 that was applicable. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that the size of the proposed dwelling is reflective of the immediate area, as such I am content that the proposed dwelling is unlikely to appear as visually prominent and given the position and surrounding landscaping is able to visually integrate. I am content that the proposed design is acceptable within this rural context. As such I am content that the application is able to comply under CTY 13.

CTY 14 states that planning permission will only be granted for a building in the

countryside where it does not cause detrimental change to, or further erode the rural character of an area. Upon review of the plans I am content that the proposed dwelling in this location will not cause a detrimental impact to the character of the area and as such complies with CTY 14.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their final response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

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.

I have no flooding or residential amenity concerns.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not located within a gap along a continuous and built up frontage.

**Signature(s):** Peter Henry

**Date:** 20 December 2022

<b>ANNEX</b>	
<b>Date Valid</b>	16 August 2022
<b>Date First Advertised</b>	30 August 2022
<b>Date Last Advertised</b>	30 August 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 22 Ballymacpeake Road Portglenone Londonderry BT44 8LW</p> <p>The Owner / Occupier 20B Ballymacpeake Road Portglenone Londonderry BT44 8LW</p> <p>The Owner / Occupier 20A Ballymacpeake Road Portglenone Londonderry BT44 8LW</p> <p>The Owner / Occupier 20 Ballymacpeake Road Portglenone Londonderry BT44 8LW</p>	
<b>Date of Last Neighbour Notification</b>	12 September 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Full & RM Resp.docx	
<b>Drawing Numbers and Title</b>	
<p>Site Location Plan Plan Ref: DA41-22-01</p> <p>Site Layout or Block Plan Plan Ref: DA41-22-02</p> <p>Proposed Elevations Plan Ref: DA41-22-03</p> <p>Garage Plans Plan Ref: DA41-22-04</p>	

**Notification to Department (if relevant)**

Not Applicable



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1408/O	<b>Target Date:</b> 4 January 2023
<b>Proposal:</b> Proposed infill dwelling and domestic garage as policy cty8	<b>Location:</b> 70M NE of 107 Drummerrer Lane Coalisland
<b>Applicant Name and Address:</b> Mr JOHN MC CABE 97 DRUMMERRER LANE COALISLAND BT71 4QJ	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Summary of Issues:</b> The proposal is for a dwelling as an exception to CTY8, infill. The existing development to form the “bookends” for the ribbon required further clarification.	
<b>Summary of Consultee Responses:</b> DFI Roads – sight lines of 2.4m x 33.0m and 33.0m forward sight lines necessary for safe access. GSNI – no objections	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural countryside, as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 1.2 mile west of Lough Neagh and 1.3 miles east of Annaghmore village.	



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively flat rectangular shaped plot comprising the eastern half and roadside frontage of a large agricultural field situated adjacent a right-angled bend in, and accessed off, a minor road known as Drummurre Lane. The site is bound to the north by a mix of mature hedgerow and trees. The roadside boundary is defined by some light vegetation but largely open onto Drummurer Lane. The southern boundary is defined by post and wire fencing and low hedging enclosing the curtilage of a neighbouring 1 ½ storey dwelling of bungalow appearance. The eastern boundary is open onto the host field. An agricultural access and lane run along the inside of the northern boundary of the site.

The site is located just outside of a right-angled bend in Drummurrer Lane. It is bound by a large, detached garage to the northwest and the detached 1 ½ storey dwelling with ancillary double detached garage, no. 108 Drummurrer Lane to the south.

Views of a dwelling on this site would be on the western and southern approach along Drummurrer Lane and passing along its roadside frontage. From these views the mature vegetation bounding the site alongside topography, vegetation and development in the wider vicinity would help to enclose and provide a dwelling on it with a backdrop. Whilst the surrounding area is rural in character with the site's host field backing onto a small corpse of trees it has come under some development pressure in recent years with

a number of dwellings with ancillary buildings located adjacent and set back from the Drummurrer Lane in the immediate vicinity.

**Description of Proposal**

This is an outline planning application for a dwelling and domestic garage to be located on lands 70m northeast of 107 Drummurrer Lane Coalisland. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

**Deferred Consideration:**

This application was before the Planning Committee in April 2023 and was deferred for a meeting with the Service Director. At a meeting on 21 April 2023, via zoom, the agent stressed that other development around the site is established and may be considered to make the case for the proposal.

Members will be aware that in taking decisions on planning applications where buildings in the vicinity of a site are required to make the case, ie. dwellings on farms, clustering or the exception in the ribbon development policy, there must be a building and the buildings must be established in planning terms. It is not sufficient to rely on an approval or extant permission. Buildings can be established if they have been granted planning permission, have a Certificate of Lawfulness or it is clear they are immune from enforcement action that may require them to be removed. Members will also be aware that the granting of planning permission does not itself constitute a building and in the assessment for infill development a building must be in situ.

To the north of this application site, a dwelling has been erected without the benefit of planning permission. This dwelling is located on a site that was granted for a dwelling and garage and it is located within the curtilage of the approved dwelling. Investigations indicate that it is immune from enforcement action and as such is an established building. Investigations also indicate that the access and foundations of the approved dwelling were put in place within the timescales set out in the permission. In view of this I am content that the dwelling to the north and its curtilage may be considered in the determination of this application. Members will be aware that Policy CTY8 restricts ribbon development but allows dwellings in small gap sites within a line of 3 buildings, provided they have a common frontage. This proposed site is located at right angles to the approved site with the established garage. When standing at the corner it is clear there is a line of 3 buildings here, the established dwelling to the north and an approved dwelling and large garage to the south. These buildings do, in my opinion, present a common frontage onto Drummurrer Lane even though the road has a 90degree bend in it. From my visit to the site I was aware of the established dwelling and the proposed site reading together as both sites are located on the outside of the bend (Pic 1). To the south of the site is a dwelling with a large detached garage off-set to the rear of it. It is clear the proposed site reads with this and it is a gap within the overall frontage. I consider the proposal meets with the exception in CTY8 for a gap site and that planning permission may be granted. I consider it is appropriate to limit the height of the dwelling to respect the character of the development either side of it and a 6.0m ridge height restriction is appropriate



Pic 1 – proposed site to right of picture with garage of other dwelling further right, established dwelling to the left



Pic 2 – proposed site to left of picture with garage set to rear of dwelling reads as 2 buildings

Conditions:

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

Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.
  
2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.
 

Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.
  
3. Details of existing and proposed levels within the site, levels along the roadside, and the finished floor level of the proposed dwelling shall be submitted for approval at Reserved Matters stage. The dwelling shall be built in accordance with levels agreed at Reserved Matters stage.



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

4. The dwelling hereby approved shall have a ridge height not exceeding 6.0m above the finished floor level of the dwelling.

Reason: To ensure the development integrates into the landscape.

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

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

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 33.0m in both directions and a forward sight distance of 33.0m 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:**

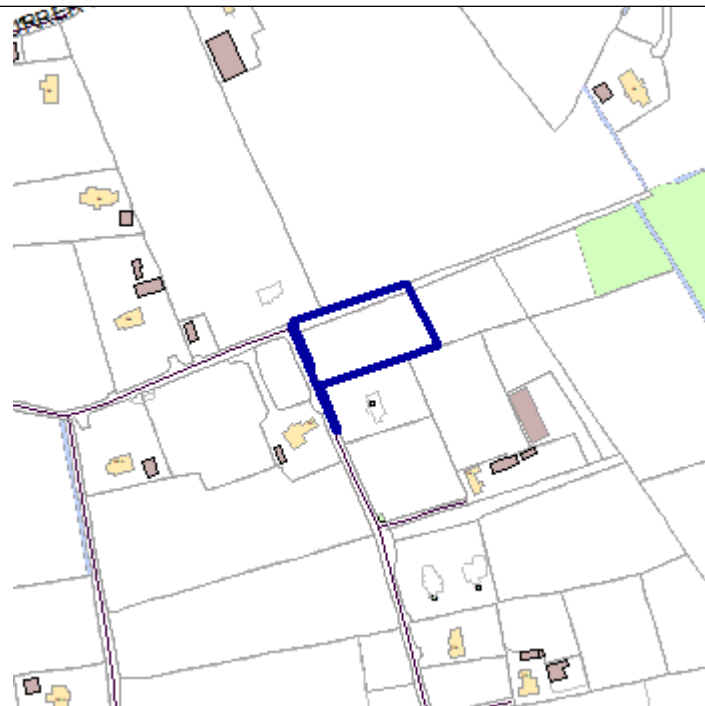


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 April 2023	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2022/1408/O	<b>Target Date:</b> 4 January 2023
<b>Proposal:</b> Proposed infill dwelling and domestic garage as policy cty8	<b>Location:</b> 70M NE of 107 Drummerrer Lane Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr JOHN MC CABE 97 DRUMMERRER LANE COALISLAND BT71 4QJ	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.doc Roads outline.docx
Non Statutory Consultee	Geological Survey NI (DfE)	3248 MUDC Planning. 70m West Of 107 Drummerr Lane Coalisland.doc

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located in the rural countryside, as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 1.2 mile west of Lough Neagh and 1.3 miles east of Annaghmore village.



Fig 1: Site outlined red



Fig 2: Site outlined red

The site is a relatively flat rectangular shaped plot comprising the eastern half and roadside frontage of a large agricultural field situated adjacent a right-angled bend in, and accessed off, a minor road known as Drummurre Lane. The site is bound to the north by a mix of mature hedgerow and trees. The roadside boundary is defined by some light vegetation but largely open onto Drummurer Lane. The southern boundary is defined by post and wire fencing and low hedging enclosing the curtilage of a neighbouring 1 ½ storey dwelling of bungalow appearance. The eastern boundary is open onto the host field. An agricultural access and lane run along the inside of the northern boundary of the site.

The site is located just outside of a right-angled bend in Drummurrer Lane. It is bound by a large, detached garage to the northwest and the detached 1 ½ storey dwelling with ancillary double detached garage, no. 108 Drummurrer Lane to the south.

Views of a dwelling on this site would be on the western and southern approach along Drummurrer Lane and passing along its roadside frontage. From these views the mature vegetation bounding the site alongside topography, vegetation and development in the wider vicinity would help to enclose and provide a dwelling on it with a backdrop.

Whilst the surrounding area is rural in character with the site's host field backing onto a small copse of trees it has come under some development pressure in recent years with a number of dwellings with ancillary buildings located adjacent and set back from the Drummurrer Lane in the immediate vicinity.

### **Description of Proposal**

This is an outline planning application for a dwelling and domestic garage to be located on lands 70m northeast of 107 Drummurrer Lane Coalisland. The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

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

#### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

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

### Representations

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

### Planning History

- M/2003/0634/O - Proposed dwelling - 146m South West of 86 Drummurrer Lane Coalisland - Granted June 2003
- M/2006/1433/RM- Proposed dwelling and garage - 146m South West of 86 Drummurrer Lane Coalisland - Granted 14<sup>th</sup> August 2007

The above applications relate to lands immediately northwest of the current site. These lands contain a large, detached garage and the foundations of a dwelling (see Fig 3, below). Whilst the foundations of the dwelling appear generally in the location approved under M/2003/0634/O and M/2006/1433/RM the pre-commencement access arrangements do not appear to have been carried out and the garage on site is not the garage approved, nor is it in the location approved nor can my own checks of historical orthophotography confirm it has been in place for 5 years and therefore immune to enforcement. See drawings approved under M/2006/1433/RM further below (Figs 4, 5 & 6)



Fig 3: Lands immediately northwest of the current site circled yellow containing a large, detached garage and the foundations of a dwelling.

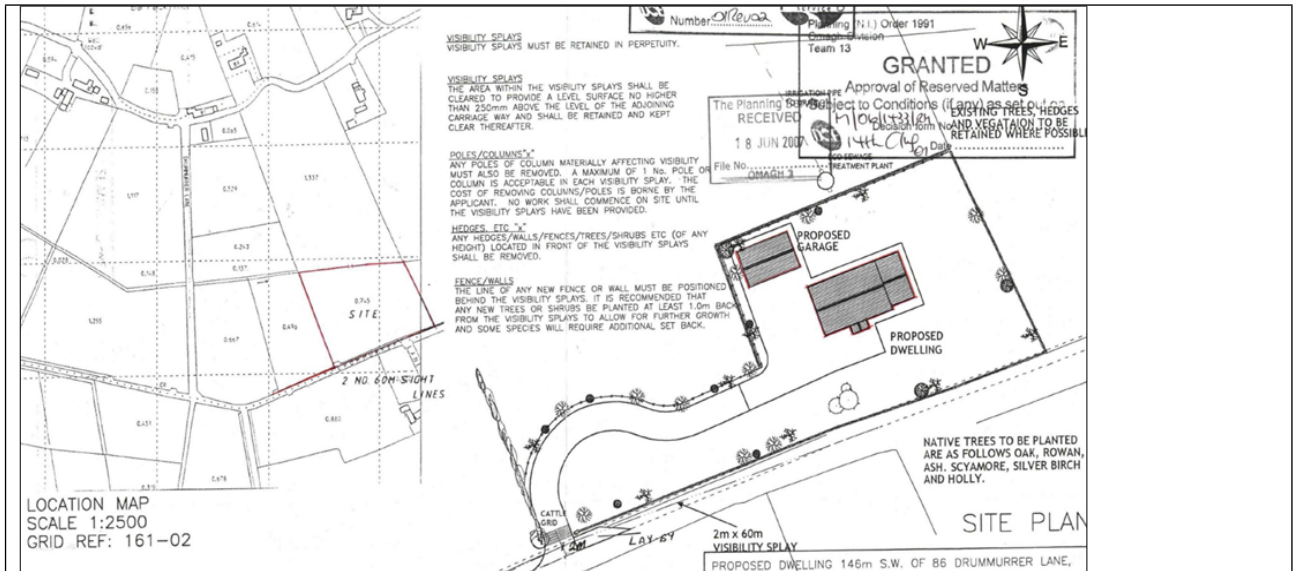


Fig 4: Site location and block plan approved under M/2006/1433/RM

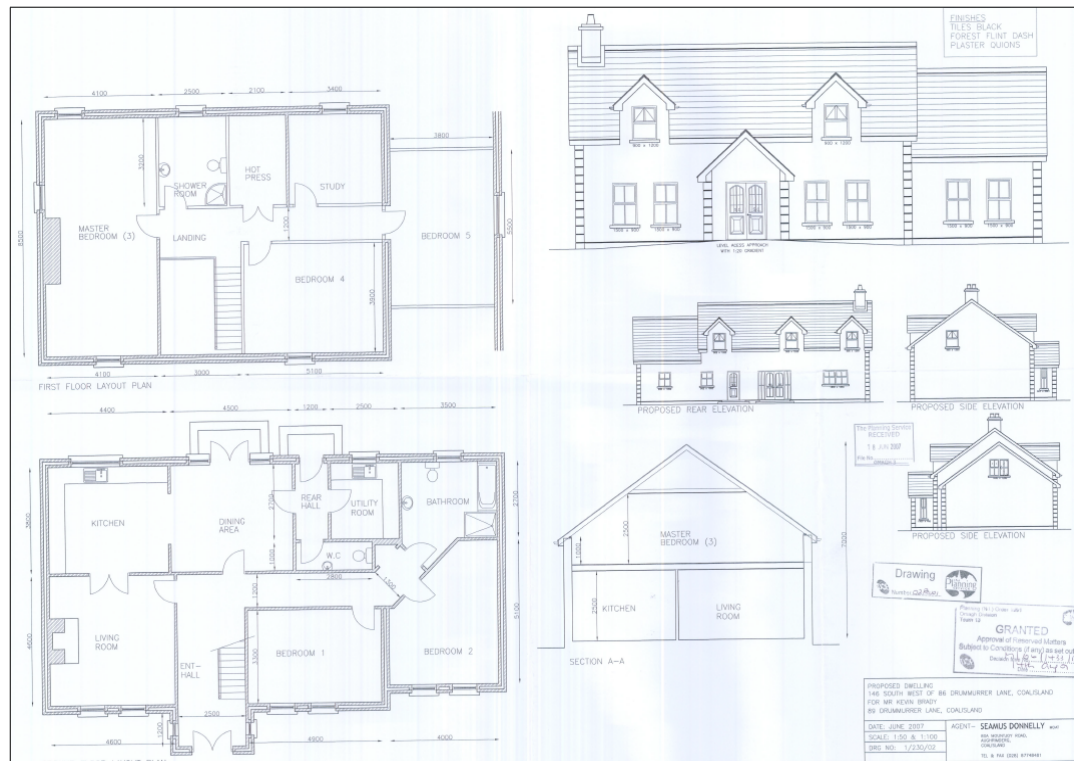


Fig 4: Floor plan and elevations of dwelling approved under M/2006/1433/RM

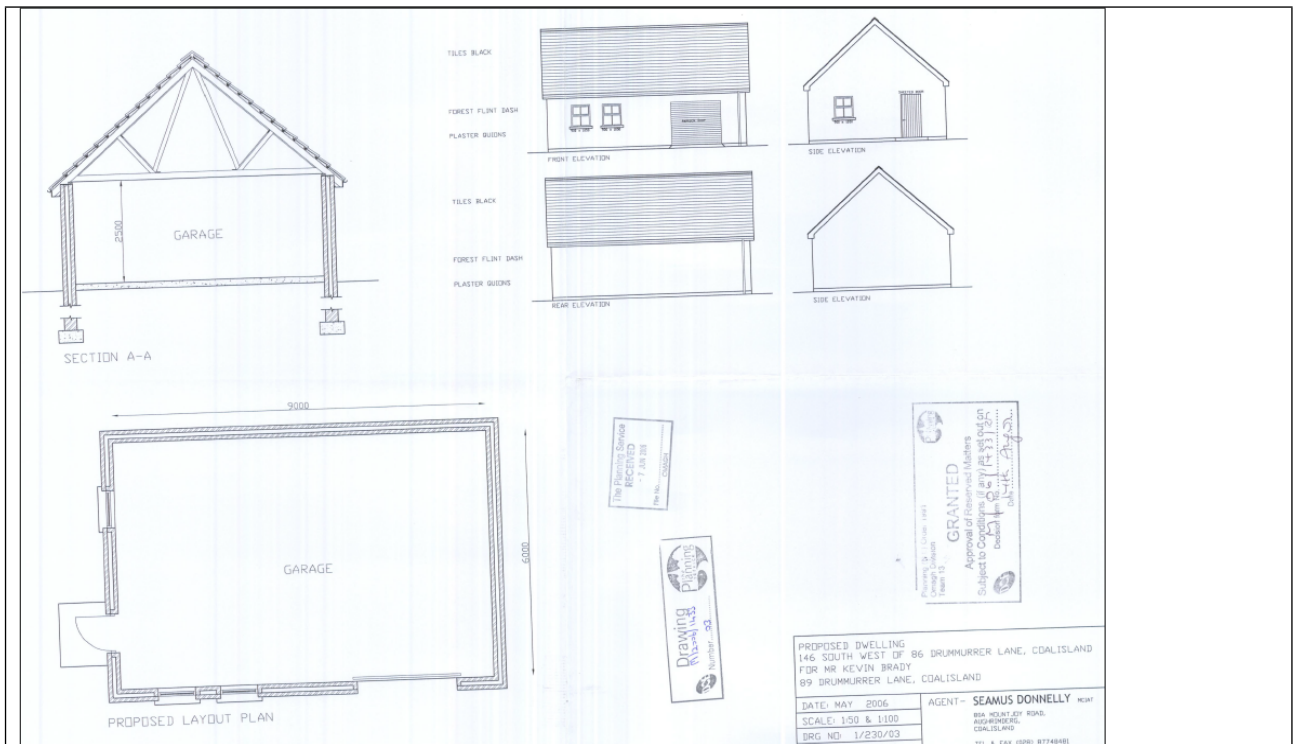


Fig 5: Floor plan and elevations of garage approved under M/2006/1433/RM

LA09/2023/0032/CA - Unauthorised garage / possibly a small dwelling - Adjacent and East of the foundations of 106 Drummurrer Lane Coalisland Tyrone - Under investigation

**Consultees**

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject to standard conditions and informatives, which could be applied to any subsequent decision notice to comply with the requirements of Planning Policy Statement 3: Access, Movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines. GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI’s “Shafts and Adits Database” indicates that the proposed site is not in an area of known abandoned mine working.

**Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside –



PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21. It has been submitted the current proposal falls under one of these instances, the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I do not consider this application in principle acceptable under CTY8. It is my opinion that the current site does constitute a small gap site suitable to accommodate a dwelling within an otherwise substantial and continuously built-up frontage. Whilst at face value it could be considered on balance that it is located within a line of 3 buildings with a common frontage and similar plot size onto Drummurrer Lane given the dwelling and double detached garage located on lands to the south and the large garage (and foundations of a dwelling) on lands to the northwest I am not content the garage (and foundations of a dwelling) to the northwest are lawful and can be considered for the purposes of Policy CTY 8. The garage (and foundations of a dwelling) is currently the subject of investigation by Planning's Enforcement Team. See 'Planning History further above.'

This proposal is contrary to Policy CTY 8 of PPS 21 in that when read in conjunction with the dwelling and double detached garage located on lands to the south it will result in the extension of ribbon development north along Drummurrer Lane leading to a further erosion of the areas rural character.

#### **Additional considerations**

I consider that had the garage to the northwest of the site benefitted from planning permission or being immune to enforcement action the site would have on balance been acceptable under policy CTY8 of PPS21 and a suitably designed scheme would not have had any unreasonable impact on the neighbouring properties amenities in terms of overlooking or overshadowing given the existing vegetation bounding the site and substantial separations distances that can be retained.

In addition to checks on the planning portal, Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

Flood Maps NI identified no flooding on site.

**Recommendation:** Refuse

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along Drummurrer Lane leading to a further erosion of the areas rural character.

**Signature(s):** Emma Richardson

**Date:** 22 March 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 September 2022
<b>Date First Advertised</b>	28 February 2023
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 108 Drummurrer Lane Coalisland Tyrone BT71 4QJ The Owner / Occupier 107 Drummurrer Lane Coalisland Tyrone BT71 4QJ The Owner / Occupier 106 Drummurrer Lane Coalisland Tyrone BT71 4QJ	
<b>Date of Last Neighbour Notification</b>	20 February 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2003/1623/O  Proposals: Proposed Dwelling - Renewal of Outline Permission M/2000/0758/O  Decision: PG  Decision Date: 02-MAR-04</p> <p>Ref: M/2006/1433/RM  Proposals: Proposed dwelling and garage  Decision: PG  Decision Date: 17-AUG-07</p> <p>Ref: M/1994/4050  Proposals: Extension to Dwelling  Decision: PDNOAP  Decision Date:</p> <p>Ref: M/2009/1043/F  Proposals: Proposed two storey extension to side of dwelling including new entrance to public road  Decision: PG  Decision Date: 07-JUL-10</p> <p>Ref: M/2003/0634/O  Proposals: Proposed dwelling  Decision: PG  Decision Date: 10-JUN-03</p>	

Ref: LA09/2022/1408/O  
Proposals: Proposed infill dwelling and domestic garage as policy cty8  
Decision:  
Decision Date:  
Ref: M/1975/0110  
Proposals: IMPROVEMENTS TO DWELLING HOUSE  
Decision: PG  
Decision Date:  
Ref: M/1975/0069  
Proposals: 11 KV O/H LINE  
Decision: PG  
Decision Date:  
Ref: M/2001/1054/O  
Proposals: Site for dwelling.  
Decision:  
Decision Date:  
Ref: M/2007/0202/RM  
Proposals: Proposed dwelling  
Decision: PG  
Decision Date: 05-APR-07  
Ref: M/2000/0758/O  
Proposals: Site for dwelling  
Decision: PG  
Decision Date: 11-JAN-01

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docx  
Geological Survey NI (DfE)-3248 MUDC Planning. 70m West Of 107 Drummerr Lane  
Coalisland.doc

**Drawing Numbers and Title**

Site Location Plan Plan Ref: L01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1419/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 5 January 2023
<b>Proposal:</b> Single detached bungalow with associated external private amenity space and garage.	<b>Location:</b> Lands to The West of 4,5, 6 & 7 Riverdale Drive, Cookstown
<b>Applicant Name and Address:</b> Mr Sammy Lyle 167 Drum road Cookstown BT80 9DW	<b>Agent Name and Address:</b> Mr karson tong 172 Tates Avenue Bebox Unit 5 Belfast BT12 6ND
<p><b>Summary of Issues:</b></p> <p>This application for a dwelling was first presented to Members as a Refusal at February 2023 Planning Committee. It was considered that the proposal was contrary to policy CTY 2A of PPS 21 as it represented the overdevelopment of a very restrictive site and would significantly alter the existing character of the cluster. It was also considered that a dwelling would adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of adequate and useable private amenity space. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planner, which took place on the 17<sup>th</sup> February 2023. Following the submission and consideration of additional plans the application was presented as a Refusal for a second time to Planning Committee in August 2023 where it was agreed to defer the application again so that Members could visit the site. This site visit took place on Tuesday 22<sup>nd</sup> August 2023. The application is again being recommended for Refusal tonight with the justification provided further in this report.</p>	

### **Summary of Consultee Responses:**

DFI Roads have been consulted with the revised plans and they have requested an amended layout detailing a 2m wide footpath along the entire site frontage to the end of site boundary at garage. I have not requested these amendments as the proposal is not considered acceptable in principle. EH have been consulted and have failed to respond despite a reminder letter being issued on the 3<sup>rd</sup> October 2023.

### **Description of Proposal**

This is an outline application for a proposed single detached bungalow with associated external private amenity space and garden located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, Cookstown.

### **Deferred Consideration:**

This is an outline application for a bungalow to be sited on a small parcel of land in Riverdale Drive, Cookstown. The site is outside the development limits of Cookstown as defined in the Cookstown Area Plan 2010. The main area of contention with this application is the ability of the site to accommodate a dwelling which would be in keeping with the character of the development as well as providing usable private amenity space. An indicative site layout and indicative elevations have been submitted and third parties have been given the opportunity to view and comment on these. There have been no further objections submitted since the application was last before Members in August 2023. To date there have been 8 no. objections submitted in total. The issues raised in all these objections are summarised as follows and those that are material to the consideration are dealt with generally in my report.

1. Application site is too narrow for proposed development
2. Impact on neighbouring properties views and potential decrease in house value
3. Roadway is too narrow to allow cars to park
4. Hard shoulder to the east of the site is very busy, lorries regularly park up
5. Overdevelopment of the site / neighbourhood
6. Impact on the character of the long established and mature neighbourhood
7. Impact on residential amenity from the loss of amenity space

As this site sits outside the development limits of Cookstown the primary policy consideration is CTY 1 of PPS 21. In the absence of a statement of case being submitted with the application, the proposal is being considered specifically under policy CTY2A of PPS21 - Dwellings in existing Clusters, as the existing level of development in the immediate area lends itself to being described as a cluster. The cluster in question can be taken as Riverdale Drive which lies outside of a farm and consists of 4 or more dwellings. The development does appear as a visual entity in the local landscape when travelling either along the Dungannon Road or the Ardcumber Road. There is a busy service station (A25 Garage) located to the immediate North of the site which could be considered as a focal point for the purpose of this policy. Whilst the site is elongated in nature, it is bounded on 2 sides by adjacent dwellings within Riverdale Drive. There are 4 other dwellings within the development which bound the Eastern boundary of the

site, only for the presence of the estate road. I would also contend that a dwelling on this site, could be considered as consolidating the existing cluster.

My main policy concern under CTY2A is in respect of residential amenity. It is very evident that this site is very restrictive. Its elongated nature allows only for a small parcel (75m<sup>2</sup>) of private amenity space. 75m<sup>2</sup> is considered an acceptable amount of private amenity space in new residential developments but the only reason it can be considered private in this location is that it is fenced off with closed board wooden fencing. It is my opinion that this does not represent a good quality residential solution for private amenity space and its is questionable as to how private this space will be, given the main Dungannon Road runs so close along one boundary and the estate road so close against the other boundary. Unlike the other dwellings in the development, their private amenity space is exactly that - private and located to the rear of the dwellings. The space provided for this dwelling will result in washing lines, bins etc being stored in an area which is considered private. For this reason the proposal fails to comply with this final criteria of CTY2A of PPS21.

Policy CTY 13 of PPS21 is also a policy consideration. Part E of this policy deals with design and whether or not the dwelling is appropriate for the site and the locality. It is my opinion that a dwelling in this location is totally out of character with the other dwellings in Riverdale Drive. Riverdale Drive is a development made up of detached dwellings on generous plots which have substantial front and rear gardens. The application site is clearly not reflective of the general layout and size of the existing plots. The dwellings in the development were approved back in the 1980's and there is no evidence that the application site was ever conditioned to be public open space in association with the development however objectors do all contend that this plot of land has historically been used as communal open space for the residents. It is my opinion having visited the site, that the size and shape of it does not lend itself to being an acceptable site for a dwelling which is reflective of the character of the development. A dwelling in this location can only be considered an overdevelopment of a restrictive site and would be inappropriate in this location and as such there is conflict with policy CTY 13 of PPS21.

Since the last site visit I have issued a consultation to EH to consider any potential impacts on residential amenity from road noise, due to the close proximity of the site to the main Dungannon Road. This consultation was issued on the 23rd August 2023. This was followed up with a reminder on the 3rd October 2023. To date, EH have failed to respond and in the absence of a response the agent is requesting that the application be brought back to committee for a decision.

It is my recommendation that this application is refused for the reasons stated below.

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

The proposal is contrary to Policy CTY2A of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

A dwelling would, if permitted adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of acceptable private amenity space conducive of a



quality residential development.

**Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Integration and Design of Buildings in the Countryside in that a dwelling on this site would be inappropriate for the site and locality. The development of this restrictive site would be out of character with the general layout of the existing development.

**Signature(s):**Karla McKinless

**Date:** 25 October 2023

## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1419/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 5 January 2023
<b>Proposal:</b> Single detached Bungalow with associated external private amenity space and garage.	<b>Location:</b> Detached Dwelling And Garden At Lands To The West Of 4,5, 6 & 7 Riverdale Drive, Cookstown
<b>Applicant Name and Address:</b> Mr Sammy Lyle 167 Drum road Cookstown BT80 9DW	<b>Agent Name and Address:</b> Mr karson tong 172 Tates Avenue Bebox Unit 5 Belfast BT12 6ND
<b>Summary of Issues:</b>  This application for a dwelling was presented to Members as a Refusal at February 2023 Planning Committee. It was considered that the proposal was contrary to policy CTY 2A of PPS 21 as it represented the overdevelopment of a very restrictive site and would significantly alter the existing character of the cluster. It was also considered that a dwelling would adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of adequate and useable private amenity space. Members agreed to defer the application for an office meeting with Dr Boomer. Following the office meeting the applicant submitted additional detailed drawings for further assessment and a site visit was carried out by the Senior Officer. The application is being recommended for refusal tonight with the justification provided further in this report.	

### **Summary of Consultee Responses:**

DFI Roads have been consulted with the revised plans and they have requested an amended layout detailing a 2m wide footpath along the entire site frontage to the end of site boundary at garage. I have not requested these amendments as the proposal is not considered acceptable in principle.

### **Description of Proposal**

This is an outline application for a proposed single detached bungalow with associated external private amenity space and garden located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, Cookstown.

### **Deferred Consideration:**

This is an outline application for a bungalow to be sited on a small parcel of land in Riverdale Drive, Cookstown. The site is outside the development limits of Cookstown as defined in the Cookstown Area Plan 2010. The main area of contention with this application is the ability of the site to accommodate a dwelling as well as providing adequate and usable private amenity space. As part of this deferred consideration an indicative site layout and indicative elevations have been submitted and third parties have been given the opportunity to view and comment on these. Since the application was last before Members, 4 objections have been received in addition to the 4 previous objections. The issues raised in all these objections are summarised as follows and those that are material to the consideration are dealt with generally in my report.

Application site is too narrow for proposed development  
Impact on neighbouring properties views and potential decrease in house value  
Roadway is too narrow to allow cars to park  
Hard shoulder to the east of the site is very busy, lorries regularly park up  
Overdevelopment of the site / neighbourhood  
Impact on the character of the long established and mature neighbourhood  
Impact on residential amenity from the loss of amenity space

As this site sits outside the development limits of Cookstown the primary policy consideration is CTY 1 of PPS 21. In the absence of a statement of case being submitted with the application, the proposal is being considered specifically under policy CTY2A of PPS21 - Dwellings in existing Clusters, as the existing level of development in the immediate area lends itself to being described as a cluster. The cluster in question can be taken as Riverdale Drive which lies outside of a farm and consists of 4 or more dwellings. The development does appear as a visual entity in the local landscape when travelling either along the Dungannon Road or the Ardculmer Road. There is a busy service station (A25 Garage) located to the immediate North of the site which could be considered as a focal point for the purpose of this policy. Whilst the site is elongated in nature, it is bounded on 2 sides by adjacent dwellings within Riverdale Drive. There are 4 other dwellings within the development which bound the Eastern boundary of the site, only for the presence of the estate road. I would also contend that a dwelling on this site, could be considered as consolidating the existing cluster.

My main policy concern under CTY2A is in respect of residential amenity. It is very evident that this site is very restrictive. Its elongated nature allows only for a small parcel (75m<sup>2</sup>) of private amenity space and the only reason it can be considered private is that it is fenced off with closed board wooden fencing. It is my opinion that this does not represent a good quality residential solution for private amenity space and its is questionable as to how private this space will be, given the main Dungannon Road runs so close along one boundary and the estate road so close against the other boundary. For this reason the proposal fails to comply with this final criteria of CTY2A of PPS21.

Policy CTY 13 of PPS21 is also a policy consideration. Part E of this policy deals with design and whether or not the dwelling is appropriate for the site and the locality. It is my opinion that the general layout of this dwelling is out of character with the other dwellings in Riverdale Drive. Riverdale Drive is a development made up of detached dwellings on generous plots which have substantial front and rear gardens. The application site is clearly not reflective of the general layout and size of the existing plots. The dwellings in the development were approved back in the 1980's and there is no evidence that the application site was ever conditioned to be public open space in association with the development however objectors do all contend that this plot of land has historically been used as communal open space for the residents. It is my opinion having visited the site, that the size and shape of it does not lend itself to being an acceptable site for a dwelling which is reflective of the character of the development. A dwelling in this location can only be considered an overdevelopment of a restrictive site and would be inappropriate in this location and as such there is conflict with policy CTY 13 of PPS21.

It is recommended that Members refuse this application for the reasons stated below.

#### **Conditions/Reasons for Refusal:**

##### **Refusal Reasons**

###### **Reason 1**

The proposal is contrary to Policy CTY2A of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

A dwelling would, if permitted adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of acceptable private amenity space.

###### **Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Integration and Design of Buildings in the Countryside in that a dwelling on this site would be inappropriate for the site and locality. The development of this restrictive site would be out of character with the layout of the existing development.

**Signature(s):**Karla McKinless

**Date:** 19 July 2023

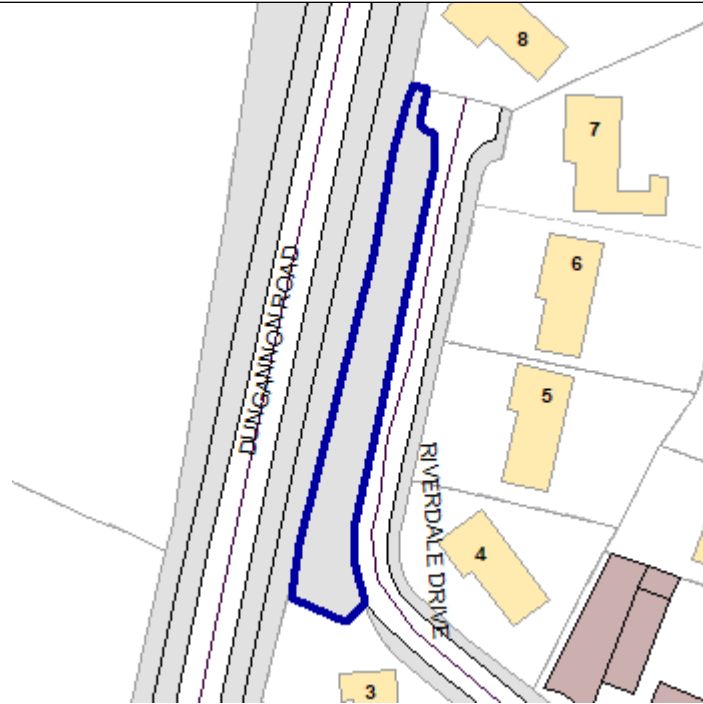


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2022/1419/O	<b>Target Date:</b> 5 January 2023
<b>Proposal:</b> Single detached Bungalow with associated external private amenity space and garage.	<b>Location:</b> Detached Dwelling And Garden At Lands To The West Of 4,5, 6 & 7 Riverdale Drive, Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Sammy Lyle 167 Drum road Cookstown BT80 9DW	<b>Agent Name and Address:</b> Mr karson tong 172 Tates Avenue Bebox Unit 5 Belfast BT12 6ND
<b>Executive Summary:</b>  The current application is presented as a refusal, having failed to meet the requirements of policy CTY 1 and CTY 2A of PPS 21. It has also received objections from neighbouring properties at No. 3, 5, 7 and 8 Riverdale Drive, Cookstown.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline - RECON RESPONSE.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Additional information requested.
Statutory Consultee	DFI Roads - Enniskillen Office	Additional information requested.
Statutory Consultee	Historic Environment Division (HED)	

### Representations:

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

## Summary of Issues

Concerns raised by objectors are summarised below:

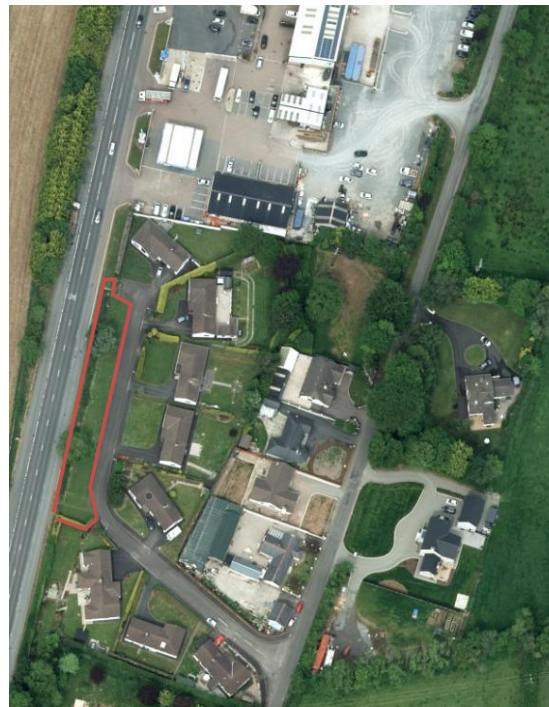
1. Application site is too narrow for proposed development
2. Impact on neighbouring properties views and potential decrease in house value
3. Roadway is too narrow to allow cars to park
4. Hard shoulder to the east of the site is very busy, lorries regularly park up
5. Overdevelopment of the site / neighbourhood
6. Impact on the character of the long established and mature neighbourhood

## Characteristics of the Site and Area

### Characteristics of the Site and Area

The application site is located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, approximately 0.4km south of the settlement limits of Cookstown. The application site is a narrow strip of land located in an existing residential cul-de-sac that runs parallel to the Dungannon Road. The site is accessed from Ardcomber Road. There are a number of residential properties immediately to the north, east and south of the application site, with commercial development further north and agricultural lands to the east.

The site is defined along the eastern boundary by a timber fence, with all remaining boundaries undefined. There is a listed building located approximately 0.1km southeast of the application site at No. 27 Ardcomber Road.



### Consultations

1. Historic Environment Division (Historic Buildings) have considered the proposal and have advised that it is sufficiently removed in context from the listed building as to have no impact.

2. DfI Roads were consulted initially and requested further information, however as this proposal is being presented as a refusal for other reasons, the additional information sought is irrelevant in the determination of this application.

### Site History



There is no relevant site history for this application site.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. This application was initially advertised in the local press on 04/10/2022 and readvertised on 01/11/2022. Seven neighbouring properties were notified in relation to this application and objections have been received from four of these properties.

### **Description of Proposal**

This is an outline application for a proposed single detached bungalow with associated external private amenity space and garden located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, Cookstown.

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

#### **Policy Consideration**

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

The site is located approximately 0.4km south of the development limits of Cookstown as per the Cookstown Area Plan 2010. There are no other zonings or designations related to the site.

##### **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

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

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

**Planning Policy Statement 21 – Sustainable Development in the Countryside**

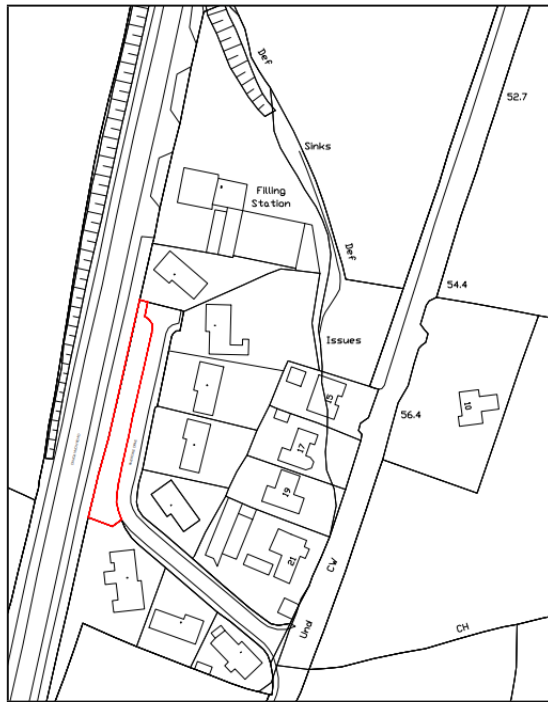
Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access, and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the following criteria are met:

- ***The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings, and open sided structures) of which at least three are dwellings;***

I am content that there is a cluster of development with six dwellings located to the north, east and south of the proposed site.



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

I am content that the cluster appears as a visual entity in the local landscape. Whilst travelling along the Dungannon Road, it is clear that there is a cluster of

development in this location. Similarly, whilst travelling along the Ardcomber Road and upon entering Riverdale Drive it is clear that there is a cluster.

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

There is an existing filling station to the north of the application site which acts as a focal point in this instance.

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

I am content that the site is bounded to the north and south by dwellings. I am content that this criterion has been met.

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

The current proposal represents the overdevelopment of a restricted site which is not in keeping with the character of the existing residential development. I am not content that the proposal meets this criterion.



- Development would not adversely impact on residential amenity;

The site is extremely narrow and lacks sufficient private amenity space for the applicant, therefore I am not content that this criterion has been met.

### **Summary of Recommendation:**

Refuse is recommended

### Refusal Reasons

#### Reason 1

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

#### Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

A dwelling would if permitted represent the overdevelopment of a very restrictive site and would significantly alter the existing character of the cluster.

A dwelling would if permitted adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of adequate and useable private amenity space.

**Signature(s):** Zoe Douglas

**Date:** 26 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 September 2022
<b>Date First Advertised</b>	1 November 2022
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 8 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 7 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 6 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 5 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 3 Riverdale Drive Cookstown Tyrone BT80 9AJ</p>	
<b>Date of Last Neighbour Notification</b>	9 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1419/O Proposals: Single detached Bungalow with associated external private amenity space and garage. Decision: Decision Date:</p> <p>Ref: I/1998/0040 Proposals: Extension to dwelling Decision: PG Decision Date:</p>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Roads outline.docx	

Historic Environment Division (HED)- DFI Roads - Enniskillen Office-Roads outline - RECON RESPONSE.docx DFI Roads - Enniskillen Office-Additional information requested. DFI Roads - Enniskillen Office-Additional information requested. Historic Environment Division (HED)-
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: PL00
<b>Notification to Department (if relevant)</b>  Not Applicable



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1504/O	<b>Target Date:</b> 27 January 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage as cluster policy cty 2a	<b>Location:</b> 160M North East Of 116 Lurgylea Road, Dungannon
<b>Applicant Name and Address:</b> Mr PATRICK CLARKE 100 LURGYLEA ROAD DUNGANNON BT70 2NY	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Summary of Issues:</b> The proposal is contrary to Policy CTY2a of PPS 21 in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster. The proposal also fails to meet CTY1, CTY 13 and CTY14 of PPS 21.	
<b>Summary of Consultee Responses:</b> DFI Roads – sight lines of 2.4m x 60.0m and 60.0m forward sight lines necessary for safe access.	
<b>Characteristics of the Site and Area:</b>  The site is a 0.95ha parcel of ground located on the Lurgylea Road and lies approximately 2.3km north west of Galbally. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a triangular field with the Lurgylea Road running along the southern boundary and the Shanmaghry Road running along the northern boundary. The southern boundary is defined by hawthorn hedging, with similar hedging and intermittent mature deciduous trees along the southern half of the eastern boundary. The northern boundary is defined by a double post and wire fence with saplings in between the two fences. The highest point of the site is at the	

southeastern tip, with the site falling away from the Lurgylea Road towards the Shanmaghry Road, as well as from east to west.

There is little recent development pressure in the area, with a single storey dwelling with associated shed and also a commercial double garage (Barrack Hill Garage) to the south of the site, and an agricultural structure to the north of the site. Altmore Church Of the Immaculate Conception lies 130m to the south of the western most tip of the site, with a two storey dwelling and associated outbuildings (No. 116 Lurglylea Road) 76m to the SW of this point.

**Description of Proposal**

Proposed site for dwelling and domestic garage as cluster policy cty 2a

**Deferred Consideration:**

This application was before the Planning Committee in February 2023 and was deferred for a meeting with the Service Director. At a meeting on 16<sup>th</sup> February 2023, via zoom, the agent referred to 3 focal points adjacent to the site, a car sales, a church and cross roads and also that PAC decisions were taken on the basis that policy interpretation is not a rigid set of rules.

The proposed site is a large triangular shaped field with some conifer trees along the east boundary, it is open to views from the west as can be seen in Pic 1 and Pic 2 below. This field is the only land that that has been identified as in the ownership of the applicant.



Pic 1 – proposed site identified in red, crossroads in the foreground, car sales to the right of the picture, Church of the Immaculate Conception not visible to left of picture





Pic 2 – closer view



Pic 3 – proposed site in the foreground of the picture with car sales to the rear at grey barrel roofed buildings, crossroads to the right and Church not visible behind car sales

The application has been submitted for consideration as a dwelling within a cluster, Policy CTY2a. Members will be aware there are 6 criteria that must be met before planning permission can be granted under that policy. There have been occasions where the members have allowed development where it does not meet all the criteria, however those have been clearly set out as exceptions where they are well contained and surrounded by development and rounds off a cluster. Taking into account the images above, members will note there is development on the opposite side of Lurgylea Road from the site. That development is well contained and framed, a dwelling on the proposed site whoever will be open and exposed in views and will not, in my view read with it. A dwelling on this site will appear in isolation and does not meet the concept of clustering of development.

The applicant only has identified this site as being in their ownership and control. As there are no buildings and the site does not have any potential to integrate a dwelling, farming information was not sought as it is unlikely to meet the exception test in CTY10 if the other criteria was met.

In light of the above I concur with the previous officers report and recommend this application is refused.

**Refusal Reasons:**

**Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks well established boundaries to enable the site to integrate in the rural countryside and as a result the proposal would, if permitted, erode the rural character of the area.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2022/1504/O	<b>Target Date:</b> 27 January 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage as cluster policy cty 2a	<b>Location:</b> 160M North East Of 116 Lurgylea Road, Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr PATRICK CLARKE 100 LURGYLEA ROAD DUNGANNON BT70 2NY	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	No objection, subject to conditions. Roads outline.docx FORM RS1 STANDARD.doc

### Representations:

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

### Summary of Issues

The proposal is contrary to Policy CTY2a of PPS 21 in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster. The proposal also fails to meet CTY1, CTY 13 and CTY14 of PPS 21.

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

The site is a 0.95ha parcel of ground located on the Lurgylea Road and lies approximately 2.3km north west of Galbally. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a triangular field with the Lurgylea Road running along the southern boundary and the Shanmaghry Road running along the northern boundary. The southern boundary is defined by hawthorn hedging, with similar hedging and intermittent mature deciduous trees along the southern half of the eastern boundary. The northern boundary is defined by a double post and wire fence with saplings in between the two fences. The highest point of the site is at the southeastern tip, with the site falling away from the Lurgylea Road towards the Shanmaghry Road, as well as from east to west.

There is little recent development pressure in the area, with a single storey dwelling with associated shed and also a commercial double garage (Barrack Hill Garage) to the south of the site, and an agricultural structure to the north of the site. Altmore Church Of the Immaculate Conception lies 130m to the south of the western most tip of the site, with a two storey dwelling and associated outbuildings (No. 116 Lurgylea Road) 76m to the SW of this point.

## **Description of Proposal**

Proposed site for dwelling and domestic garage as cluster policy cty 2a

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

### **Policy Consideration**

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

### **Relevant Histories**

There are no recent relevant histories associated with this site.

### **Representations**

Three (3) neighbouring properties were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of

representation have been received.

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

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

### **Mid Ulster District Council Draft Plan Strategy 2030**

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

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction from PPS 21, therefore existing policy applies.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Shanmaghry Road, as indicated on the submitted plan. DFI Roads have no objection subject to sightlines of 2.4m x 60m being provided. This will result in the existing hedge and fence to be setback within the sight visibility line area, which I consider acceptable.

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

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- a replacement dwelling in accordance with Policy CTY 3;

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

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

CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

*the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;*

The existing development in the area lies outside of a farm. To the south of the site lies No. 110 - a single storey dwelling which has a large shed building adjacent and west of it situated within the same curtilage, and No. 112 - Barrack Hill Garage. An agricultural structure is situated to the north of the site. A Church with associated carpark, and No. 116 a two storey dwelling with associated outhouses lie further to the south/southwest of the site. The agricultural structure to the north is open on two sides and therefore cannot be included within any cluster. On the same principle, the shed associated with No. 110 cannot be considered, nor can the ancillary buildings at No. 116. The Church lies 130m from the nearest point of the site, with No. 116 located 76m from the nearest point of the site. It should be noted at this time that the agent has indicated the southwestern most portion of the site as the preferred location of the site, which would increase these distances to 158m and 160m respectively. These buildings are all located in a linear form along the Lurgylea Road. I do not feel there is an existing cluster of development at this location, nor are there at least three dwellings. From this I consider the first criterion for CTY 2a has not been met.

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

When viewed on site and from orthophotography the site and the surrounding development does not appear as a visual entity in the landscape. When travelling northwest along the Lurgylea Road the site will read with the existing development at No. 110 as well as with Barrack Hill Garage; however, it does not read with the Church or No. 116 given their set back and distance from the public road, as well as the existing mature vegetation. When travelling southeast along the Lurgylea Road the site is viewed with No. 116 and with the garage. There is no visual connection with the Church given its setback and the intervening vegetation. When travelling northeast along the Shanmaghy Road along the site frontage, a dwelling sited as proposed will read with No. 110 and the garage but not with the Church or No. 116. When travelling southwest along the Shanmaghy Road a dwelling as proposed will read with No. 110, the garage and No. 116. These views are filtered by the existing vegetation along the southern portion of the eastern boundary. Once again, the Church is screened from view by the intervening vegetation. There is currently no sense of arriving at ‘a cluster’ on any approach to the

site and I therefore do not feel the second criterion has been met.

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

The focal point as identified by the agent comprises the Church as well as the dwelling and ancillary buildings at No. 116. The Church can be considered a focal point here, but I do not feel there is a cluster of development associated with it as there is not four or more buildings of which at least three are dwellings. Furthermore, although the site is located at a road junction it is not a cross-roads, and as such the proposal fails to comply with the third criterion of CTY2a.

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

The site has limited vegetation cover save for the southern half of the eastern boundary. The site is bounded to the south by a single storey dwelling with associated shed as well as a commercial garage. There is no development to the eastern boundary, and only an open sided agricultural structure to the north. The site is only bounded to one side by development. I do not feel the site has a suitable degree of enclosure, nor is it bounded on three sides with other development. I do not consider this criterion has been met.

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

A new dwelling here cannot be absorbed into the existing cluster, as a cluster of development does not exist. A dwelling on this site would significantly alter the existing character here. As there is no existing development on either side it is my consideration the development could not be absorbed, but would rather significantly alter the existing character and would visually intrude into the open countryside. Accordingly, the fifth criterion cannot be met.

*development would not adversely impact on residential amenity.*

A new dwelling on this site would not adversely impact on residential amenity should an approval be considered acceptable.

### **Policy CTY 13 – Design and Integration and Policy CTY 14 – Rural Character**

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application. It is my consideration that the site lacks long established natural boundaries suitable to provide a degree of enclosure for the building to integrate into the landscape, but rather would rely primarily on the use of new landscaping for integration. The proposal fails to meet the requirements of CTY 13.

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



buildings in both static and transient views. This would result in a suburban style build-up of development that would be detrimental to rural character. A dwelling on this site is not in accordance with this policy and the proposal therefore fails to comply with CTY 14.

There is no evidence to suggest that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement. The agent was advised on 30<sup>th</sup> November 2022 that we did not think this application met Policy CTY2a as there is not an existing cluster of development consisting of at least three dwellings, however no further justification for the site has been provided. It therefore does not comply with Policy CTY1 or Policy CTY2a of PPS21.

### **Other Material Considerations**

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

From a check of the Rivers Agency Strategic Flood Map I have no flooding concerns. I recommend the application is refused as it is contrary to CTY 1, CTY 2a, CTY 13 and CTY 14 of PPS 21.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks well established boundaries to enable the site to integrate in the rural countryside and as a result the proposal would, if permitted, erode the rural character of the area.

**Signature(s):** Deirdre Laverty

**Date:** 24 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	14 October 2022
<b>Date First Advertised</b>	25 October 2022
<b>Date Last Advertised</b>	25 October 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier Church Of The Immaculate Conception Altmore Pomeroy The Owner / Occupier 116 Lurgylea Road, Dungannon BT70 2NY The Owner / Occupier 110 Lurgylea Road, Dungannon BT70 2NY	
<b>Date of Last Neighbour Notification</b>	18 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-No objection, subject to conditions.Roads outline.docxFORM RS1 STANDARD.doc	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1561/O <b>Recommendation:</b> Refuse	<b>Target Date:</b> 16 February 2023
<b>Proposal:</b> Proposed site for dwelling & domestic garage based on policy CTY 2A - dwelling within an existing cluster	<b>Location:</b> Approx 30M South Of No 26 Grillagh Hill Maghera
<b>Applicant Name and Address:</b> MR MALACHY SCULLIN No 10 CORLACKY HILL MAGHERA BT46 5NP	<b>Agent Name and Address:</b> MR BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SQ
<b>Summary of Issues:</b> <p>The application was first presented to Members as a refusal at January 2023 Planning Committee. The proposal was deemed to be contrary to policies CTY 1, CTY 2A, CTY 8, and CTY 14 of PPS 21 and policies FLD 1 &amp; FLD 3 of PPS15. Members agreed to defer the application for an office meeting with Dr Boomer and the Senior Planning Officer, which took place on the 19<sup>th</sup> January 2023. The application was presented as a refusal for a 2<sup>nd</sup> time at April 2023 Planning Committee for the same reasons. At this meeting Members agreed to defer the application again to allow the applicant to consider alternative options. No alternatives have been put forward and so the application is again recommended for refusal.</p>	
<b>Summary of Consultee Responses:</b> <p>No new consultations carried out to inform my deferred consideration</p>	
<b>Description of Proposal</b> <p>This is an outline planning application for a proposed site for dwelling &amp; domestic garage (based on policy CTY2a - dwelling within an existing cluster).</p>	

**Deferred Consideration:**

The site subject of this application was applied for under Policy CTY 2A - Dwelling in an existing cluster. It was considered that the proposal failed to meet 3 of the 6 criteria contained within the policy. It does not appear as a visual entity in the local landscape. It is not associated with a focal point or cross roads and it was not demonstrated that development would not adversely impact on residential amenity. It was also considered that a dwelling on this site would fail to comply with policies CTY 8 and CTY 14 in that, it would create a ribbon of development along Grillagh Hill Road. Furthermore, the site also lies within a Fluvial Flood Plain and a single dwelling does not meet any of the exceptions contained within policy FLD 1 of PPS15. Consultation was carried out with DFI Rivers, who advised that surface water run-off from the development may adversely impact upon other development. They recommended that a Drainage Assessment be carried out for further consideration. This was never submitted and so the proposal is also contrary to policy FLD 3 of PPS 15. An objection was raised in relation to surface water flooding and the impact this would have on the neighbouring property. Without any Drainage Assessment to show otherwise it was determined that the proposal would adversely impact the amenity of the neighbouring property.

At the deferred office meeting no new information was submitted to deal with any of the issues detailed above. The potential for a farm case was explored however the agent advised this was not achievable.

The application was presented again at April 2023 Planning Committee with a recommendation to refuse. Members on the night agreed to defer the application to allow the agent and applicant some time to explore alternative options. 7 months have passed and no alternative has been put forward.

It is recommended that Members agreed to refuse this application as the proposal fails to comply with Policies CTY 2A, CTY 8 and CTY 14 of PPS 21 and Policies FLD 1 and FLD 3 of PPS 15.

Refusal is recommended

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY2A of Planning Policy Statement 21, Sustainable Development in the Countryside in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads. The development would also adversely impact on residential amenity as it has not been demonstrated that surface water run-off from the site will not impact on adjacent properties.

**Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along Grillagh Hill.

**Reason 4**

The proposal is contrary to Policies FLD 1 and FLD 3 of Planning Policy Statement 15, Planning and Flood Risk. The site is located within the 1 in 100 year fluvial flood plain and a single dwelling is not considered one of the exceptions under FLD 1. No Drainage Assessment has been submitted to demonstrate that surface water run-off from the development will not adversely impact on other development in the area.

**Signature(s):**Karla McKinless

**Date:** 19 October 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 January 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2022/1561/O	<b>Target Date:</b> 16 February 2023
<b>Proposal:</b> proposed site for dwelling & domestic garage (based on policy cty 2a - dwelling within an existing cluster)	<b>Location:</b> Approx 30M South Of No 26 Grillagh Hill Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr MALACHY SCULLIN No 10 CORLACKY HILL MAGHERA BT46 5NP	<b>Agent Name and Address:</b> Mr BRENDAN MONAGHAN 38b AIRFIELD ROAD THE CREAMH TOOMEBRIDGE BT41 3SQ
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	Rivers Agency	818577 - Final Response.pdf

### Representations:

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

### Summary of Issues

The proposal is contrary to Policy CTY 1, 2A, 8, and 14 of PPS 21 and policy FLD 1 & FLD 3 of PPS15.

One objection has been received. The objection did not raise any issues with the principle of development rather highlighting issues relating to drainage issues and highlighting surface water flooding within the site. These issues have been assessed as

part of this report.

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

The site is located within the open countryside, outside any development limits of any other designations as per the Magherafelt Area Plan. The red line of the application site is comprised of the eastern, roadside portion of a larger agricultural field, which extends further west. The site is relatively flat, with a low level hedge defining the southern boundary, with the eastern and northern boundaries defined by post and wire fencing and wooden fencing separating the site from the adjacent dwelling to the north. The western boundary is currently undefined. The surrounding area is a mix of residential dwellings and agricultural land.

### **Description of Proposal**

This is an outline planning application for a proposed site for dwelling & domestic garage (based on policy CTY2a - dwelling within an existing cluster).

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking  
PPS 15 (Revised): Planning and Flood Risk

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A

number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- *The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content there is a cluster of development which consists of four dwellings, three to the north of the site and one to the east.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above two points, it was agreed at an internal group meeting that the cluster does not appear as a visual entity in the local landscape. Furthermore, the agent is relying on a church in ruins and burial grounds approximately 250m north west of the site. Whilst this has been agreed as a focal point for other applications, these applications have been within the cluster associated with that focal point. While it is contended there is a cluster of development around the development site, this cluster is not associated with this focal point as it is too far removed, therefore failing to comply.

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

The site is bounded to the north by No.26 Grillagh Hill and although the public road separates the site from No.23 to the east it is agreed this is considered being bound. Therefore, the development is bounded on two sides.

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

As the development is bounded on two sides, I am content this site can be absorbed into the existing cluster and it will not visually intrude into the open countryside. There is an existing laneway directly adjacent to the south which acts as an important boundary for the cluster, any development beyond this would appear as visually intrusive in the open countryside.

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

An objection was raised in relation to surface water flooding and the impact this would have of the neighbouring property. DfI Rivers were consulted who stated that surface water run-off from the development may adversely impact upon other development. As such, in its current form and without any assessment to show otherwise, I believe the

proposal would adversely impact the amenity on the neighbouring property.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape with additional planting along the western boundary to aid integration. A ridge height condition of 6m should be applied to any approval.

Policy CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated, the proposed dwelling would not appear unduly prominent in the landscape if kept to a restricted ridge height. However, a dwelling in this location my view, would extend a ribbon of development along the Grillagh Road and would be contrary to Policy CTY 8 and Policy CTY 14.

PPS 3 - Access, Movement and Parking;

The proposal is to create a new access. Transport NI advised that they have no objection to the proposed development subject to conditions.

PPS 15 (Revised): Planning and Flood Risk

DfI Rivers were consulted and responded to state that the Strategic Flood Map (NI) indicates that the site lies within the 1 in 100 year fluvial flood plain. DfI Rivers would consider that this proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1. I do not consider the application to be an exception to this nor of overriding regional importance. A Flood Risk Assessment has not been received or requested and as such the proposal is contrary to FLD 1.

DfI Rivers stated further that surface water run-off from the development may adversely impact upon other development. Therefore, DfI Rivers would recommend that a Drainage Assessment is carried out for our consideration. As the principle of development has not been agreed or established a Drainage Assessment was not request and as such the proposal is contrary to FLD 3.

**Other Material Considerations**

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

**Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

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

### Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point such as a social / community building/facility, or is located at a cross-roads and the development would adversely impact on residential amenity.

### Reason 3

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, would extend a ribbon of development along Grillagh Hill.

### Reason 4

The proposal is contrary to Policy FLD 1 and FLD 3 of Planning Policy Statement 15, Planning and Flood Risk in that the site is located within the 1 in 100 year fluvial flood plain and not Drainage Assessment has been submitted to prove surface water run-off from the site development will not adversely impact on other development.

**Signature(s):** Ciaran Devlin

**Date:** 20 December 2022

<b>ANNEX</b>	
<b>Date Valid</b>	3 November 2022
<b>Date First Advertised</b>	15 November 2022
<b>Date Last Advertised</b>	15 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 23 Grillagh Hill Maghera Londonderry BT46 5PR The Owner / Occupier 26 Grillagh Hill Maghera Londonderry BT46 5PR	
<b>Date of Last Neighbour Notification</b>	25 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2009/0068/F Proposals: Proposed farm dwelling. Decision: PG Decision Date: 09-APR-09</p> <p>Ref: LA09/2022/1561/O Proposals: proposed site for dwelling &amp; domestic garage (based on policy cty 2a - dwelling within an existing cluster) Decision: Decision Date:</p> <p>Ref: H/1979/0515 Proposals: SITE OF BUNGALOW INCLUDING GUEST HOUSE ACCOMMODATION Decision: PR Decision Date:</p> <p>Ref: H/2002/1113/F Proposals: Two storey dwelling and garage. Decision: PG Decision Date: 17-JAN-03</p> <p>Ref: H/2008/0645/F</p>	

Proposals: Retrospective relocation of access approved under H/2002/1113/F, erection of pillars and wing walls. Proposed adjacent farm shed and new access.

Decision: PG

Decision Date: 28-JUL-09

Ref: H/2002/0224/O

Proposals: Site For Two-Storey Dwelling & Garage

Decision: PG

Decision Date: 24-MAY-02

Ref: H/2012/0155/F

Proposals: Proposed extension and alterations to provide additional creche/day care facilities and first floor living accommodation to supersede planning approval

H/2008/0638/F

Decision: PG

Decision Date: 12-SEP-12

Ref: H/2001/1037/F

Proposals: Dwelling & Garage

Decision: PG

Decision Date: 14-MAR-02

Ref: H/2003/1052/O

Proposals: Site of dwelling and garage.

Decision: PG

Decision Date: 04-AUG-04

Ref: H/2004/1364/F

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 08-JUL-05

Ref: H/2008/0638/F

Proposals: Proposed incorporation of creche facilities into existing dwelling.

Decision: PG

Decision Date: 16-JUN-09

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

Rivers Agency-818577 - Final Response.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1686/O	<b>Target Date:</b> 20 March 2023
<b>Proposal:</b> Dwelling & garage	<b>Location:</b> 61 Ballynakilly Road Coalisland BT71 6JJ
<b>Applicant Name and Address:</b> Mr Terry McCann 62 Ballynakilly Road Coalisland BT71 6JJ	<b>Agent Name and Address:</b> Karen Mollaghan 89 Main Street Garvagh Coleraine BT51 5AB
<b>Summary of Issues:</b> <p>This application is for a dwelling in a cluster, there is a substantial amount of development around the site, it is located to the rear of and beside a mechanics business and other dwellings. Development that was approved in the mechanics yard has now been built and provides the development on 2 sides of the site. The mechanics is not considered to be a social/community building/facility and so all the criteria are not met. The site is well screened and enclosed by development so will not affect rural character and an exception is being made here to CTY2a.</p>	
<b>Summary of Consultee Responses:</b> DFI Roads – recommend to approve with conditions, 2.4m x 160.0m sightlines and 160.0m forward sight distance	
<b>Characteristics of the Site and Area:</b> <p>The site lies in the open countryside just a short distance to the south east of the settlement limits of Coalisland and the North west of Ballynakilly and outside all areas of constraint as depicted by the DSTAP 2010. The site lies along the main Ballynakilly road</p>	

and the red line includes a portion of lands set back from the roadside. The site had a post and wire fence along rear boundary and is enclosed along the N and S sides by the existing buildings which enclose the existing yard area.

### Description of Proposal

Outline planning permission is sought for dwelling and garage under CTY 2a of PPS 21.

### Deferred Consideration:

This application was before the Planning Committee in June 2023 where it was deferred for a meeting with the Service Director for Planning. At the meeting it was advised that development immediately adjacent to the site has now been built and this provides the development on 2 sides as required by the policy. The agent also advised they are not seeking an exception to policy here as they believe the proposal is at a focal point as there is a large mechanics yard that provides car services, valeting and tyre sales/fitting.

I have visited the site and the mechanics yard and buildings adjacent to the site have now been completed generally in accordance with the approved details. The site proposed is located immediately behind the buildings and to the north is the garden and garage of a recently constructed dwelling, that dwelling was granted as one of a double infill. I agree with the previous case officer report that now the approved development has been built the site is bounded completely on one side and partially on another side as set out below. I do not agree with the agent that the mechanics is a focal point, it is a rural business and there are a number of similar businesses along Ballynakilly Road. The fact it is not a focal point does not, in my view, mean that it should not be granted permission. I do consider the proposal will be well hidden from views, especially if the dwelling is kept to 6.0m ridge height similar to those around it. A dwelling here would result in rounding off of the development here and would not have any real impact on the overall character of the area.



I consider a dwelling on this site would round off development here and not result in any obvious expansion of the cluster of development. I consider members could make an exception to CTY2a here and allow this development for this reason and I recommend planning permission is granted.

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 Mid Ulster District Council, in writing, before any development is commenced.

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

3. The dwelling hereby approved shall have a ridge height not exceeding 6.0m above the finished floor level of the dwelling.

Reason: To ensure the development integrates into the landscape.

4. Prior to the commencement of any works or other development hereby permitted, the vehicular access, including visibility splays of 2.4m x 160.0m in both directions and a 160.0m forward sight line, shall be provided in accordance with the 1:500 site plan submitted and approved at reserved matters stage. 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.

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

dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 12 June 2023	<b>Item Number:</b> 5.31
<b>Application ID:</b> LA09/2022/1686/O	<b>Target Date:</b> 20 March 2023
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 61 Ballynakilly Road Coalisland BT71 6JJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Terry McCann 62 Ballynakilly Road Coalisland BT71 6JJ	<b>Agent Name and Address:</b> Karen Mollaghan 89 Main Street Garvagh Coleraine BT51 5AB
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

No representations received. Contrary to CTY 2a of PPS 21.

### Characteristics of the Site and Area

The site lies in the open countryside just a short distance to the south east of the settlement limits of Coalisland and the North west of Ballynakilly and outside all areas of constraint as depicted by the DSTAP 2010. The site lies along the main Ballynakilly road and the red line includes a portion of lands set back from the roadside. The site had a

post and wire fence along rear boundary and is enclosed along the N and S sides by the existing buildings which enclose the existing yard area.

### **Description of Proposal**

Outline planning permission is sought for dwelling and garage under CTY 2a of PPS 21.

### **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: 63, 65, 61A, 61 and 63A Ballynakilly Road. At the time of writing, there were no representations received.

##### Planning History

There is not considered to be any relevant planning associated with the site itself.

There is relevant planning history associated with the land to the east and is discussed throughout the report.

LA09/2021/1350/F - Lands To The Rear Of 61 Ballynakilly Road, Coalisland - Extension to existing yard with new shed for proposed expansion of existing established vehicle mechanic business – PERMISSION GRANTED

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

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

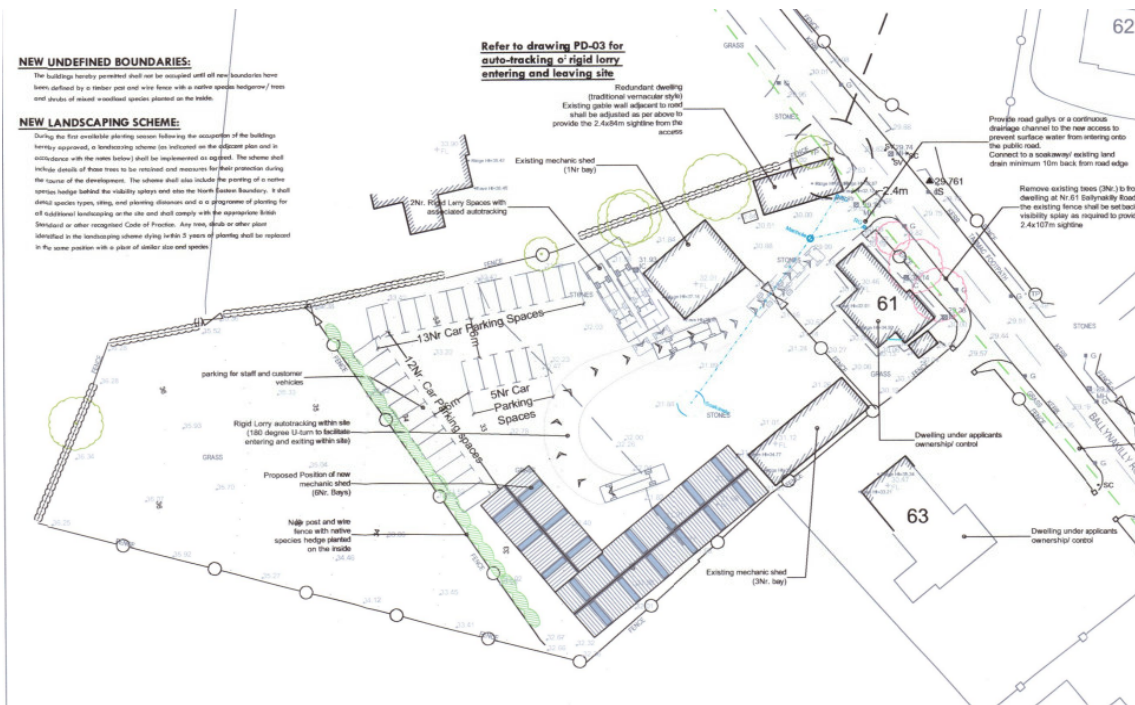
The Dungannon and South Tyrone 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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.

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

dwelling. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. The cluster appears easily as a visual entity in the local landscape. The site is not associated with any focal point nor is it located at a crossroads and thus fails on this criterion.

The identified site is also not considered to be bounded on two sides. There was a recent approval for expansion of the mechanics yard (under LA09/2021/1350/F) which appears to have one part of the shed recently constructed but not the main bulk which would bound this application site and the development to the north mainly bounds the access arrangement to this site, rather than the actual site. The approved site layout plan is shown below in figure 1. Photo 1 shows the photograph provided from the agent which shows what has been built on site.



**Figure 1 – the development which was approved, which should provide bounding to the east of the site however not all of what was approved was evident on site yet. See Photo 1 below.**





**Photo 1 – Shows a portion of the development approved under LA09/2021/1350/F constructed.**

Figure 2 below shows what the agent provided when asked where they felt the site was bounded on two sides by development. As noted before, if the development which was approved previously was constructed on site I would be content that it was bounded on this end, however the northern boundary is still only slightly bounded and mainly is the access which bounds with development to the north. It is my consideration that the proposed development may extend slightly but overall could be absorbed into the existing cluster without significantly altering the existing character or adversely impacting on the residential amenity. I am content a dwelling could be designed within the red line of the site which would avoid issues such as privacy or overlooking concerns with neighbouring properties.



**Figure 2 – The agent provided this map to highlight where they felt the development was bounded on two sides.**

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 at either side of the red line of the site either single or 1.5 storey, I feel a ridge height restriction of 6m would be appropriate should approval be forthcoming. The existing landscaping will 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.

The proposal intends to create a new access onto Ballynakilly Road, DfI Roads were consulted and have raised no concerns subject to condition.

Having considered all of the above, I consider that the development fails on some of the

criterion held within CTY 2a of PPS 21 and as such is recommended for refusal.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and is not located at a cross-roads. The proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure and the dwelling would if permitted visually intrude into the open countryside.

**Signature(s):** Sarah Duggan

**Date:** 24 May 2023

<b>ANNEX</b>	
<b>Date Valid</b>	5 December 2022
<b>Date First Advertised</b>	22 December 2022
<b>Date Last Advertised</b>	22 December 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  63 Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  65 Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  61A Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  59A Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  59 Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  62 Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  61 Ballynakilly Road Coalisland Tyrone BT71 6JJ  The Owner / Occupier  63A Ballynakilly Road Coalisland Tyrone BT71 6JJ</p>	
<b>Date of Last Neighbour Notification</b>	23 March 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-Outline resp.docx	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

<b>Report on</b>	Dfl - planning improvement work programme - Review of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015.
<b>Date of Meeting</b>	7 <sup>th</sup> November 2023.
<b>Reporting Officer</b>	Melvin Bowman.
<b>Contact Officer</b>	Dr Chris Boomer.

<b>Is this report restricted for confidential business?</b>  If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To agree that the Service Director, Dr Chris Boomer, makes a submission to the Local Government lead, Sandra Adams (Mid & East Antrim Council) with respect to a Dfl review of Local Development Plan Regulations, including experiences, recommendations, and supporting evidence for any proposed changes.
<b>2.0</b>	<b>Background</b>
2.1	Council received a consultation from the Department for Infrastructure (DfI) on 1 <sup>st</sup> September in relation to a review of Local Development Plan Regulations (Appendix A).
2.2	Recommendations contained within reports undertaken by the NI Audit Office and Public Accounts Committee following the Review of the implementation of the Planning Act (NI) 2011, indicated the need for a planning improvement work programme.
2.3	The programme has been agreed by central and local government and involves both regulatory improvements and legislative changes to the planning system.
2.4	The Dfl review will consider five key areas of the LDP process: <ul style="list-style-type: none"> <li>• Legislative requirements surrounding consultation.</li> <li>• Preparation of Timetables.</li> <li>• Publicity.</li> <li>• Notification.</li> <li>• Submission of documentation.</li> </ul>

2.5	The Department (DfI) have asked Council to share its operational experiences of the Local Development Plan Regulations, along with recommendations and supporting evidence for any proposed changes.
2.6	The Department (DfI) intends to engage the public and associated stakeholders in early 2024 with proposed changes to the Regulations by way of public consultation.
2.7	The Council will have a further opportunity to provide representation(s) during any public consultation period.
<b>3.0</b>	<b>Main Report</b>
3.1	<p>Summary of recommendations:</p> <ul style="list-style-type: none"> <li>• The definition of consultation body should be redefined to remove onerous and unnecessary consultation with bodies who have no interest / apparatus in N.I.</li> <li>• The timetable should provide an overview of the LDP process, i.e., POP, DPS and LPP however to avoid numerous revisions, timeframes should only be stipulated for the stage at which the Council is at.</li> <li>• The requirement that the timetable be agreed by full resolution of the Council should be removed to avoid unnecessary delay as Planning Committee agreement is considered suffice.</li> <li>• The regulations are interrelated and therefore amendments to a single part can rarely be considered in isolation. Consistency should be provided across the regulations, with similar stages adopting similar requirements, cross-referencing and wording.</li> <li>• Consultation periods for the POP, DPD (reps) and DPD (counter reps) should adopt a timeframe of 8 to 12 weeks to afford Council's the necessary flexibility to adjust consultation periods as deemed appropriate.</li> <li>• The start date of consultation periods should be clearly defined by Councils to remove ambiguity.</li> <li>• The provision of hard copies of documents in Council offices should be removed and instead documents and information should be placed on the Council's website, supported (where appropriate) by notice in the Belfast Gazette and by local advertisement. This will assist in contributing toward the Council's sustainability objectives and removes unnecessary expense and resourcing. Request to view documents in Council offices can be facilitated upon request.</li> <li>• The submission of the DPD should be via electronic communication and advertisement of the submission removed given consultation bodies and any person who has made a rep or counter rep will have been notified.</li> </ul>

<b>4.0</b>	<b>Conclusion</b>
4.1	It is important that Council highlights to The Department (DfI) experienced and evidenced inadequacies contained within the Planning (Local Development Plan) Regulations (Northern Ireland) 2015.
4.2	The proposed recommendations outlined above will assist in reducing bureaucracy and ambiguity for Council whilst providing consistency across Northern Ireland for interested parties.
4.3	The Council will have a further opportunity to engage with a public consultation on this review in early 2024.
<b>5.0</b>	<b>Other considerations</b>
5.1	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: N/A
	Human: N.A
	Risk Management: N/A
5.2	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
<b>6.0</b>	<b>Recommendation(s)</b>
6.1	That Members agree the response as summarised above and detailed within 'Annex 1' is issued to Sandra Adams as requested by DfI.
<b>7.0</b>	<b>Documents Attached &amp; References</b>
7.1	Appendix A – copy of DfI letter to Chief Executive of 1 <sup>st</sup> September 2023. Annex 1 – completed DfI questionnaire for return to Sandra Adams.



Department for

**Infrastructure**

An Roinn

**Bonneagair**

Department for

**Infrastructure**

[www.infrastructure-ni.gov.uk](http://www.infrastructure-ni.gov.uk)

**Regional Planning Policy and Casework Directorate**

**Council Chief Executives**

Clarence Court  
10-18 Adelaide Street  
BELFAST  
BT2 8GB  
Tel: 0300 200 7830

**Email:** [alistair.beggs@infrastructure-ni.gov.uk](mailto:alistair.beggs@infrastructure-ni.gov.uk)  
[fiona.mccartan@infrastructure-ni.gov.uk](mailto:fiona.mccartan@infrastructure-ni.gov.uk)

Your reference:

Our reference:

1<sup>st</sup> September 2023

Dear Chief Executive,

**Review of the Planning (Local Development Plan) Regulations (Northern Ireland) 2015**

Following the Review of the implementation of the Planning Act (NI) 2011, and the recommendations made in the NI Audit Report and the Public Accounts Committee Report on Planning in Northern Ireland, a planning improvement work programme, agreed by local and central government, encompassing regulatory improvements and legislative changes to the planning system is being taken forward.

One of the agreed legislative actions is a review of the **Planning (Local Development Plan) Regulations (Northern Ireland) 2015 (S.R 2015 No. 62)** (The Regulations). The review is considering five key areas of the Local Development Plan process including the legislative requirements surrounding consultation, the preparation of Timetables, publicity and notification and submission of documentation.

To assist with this review, the Department invites you to share your operational experiences of the Local Development Plan Regulations, along with your recommendations and supporting evidence for any changes. This feedback will be important in helping us understand local government views and shape any proposed revisions, in order that the Regulations are practical and appropriate.

E-mail: [planning@infrastructure-ni.gov.uk](mailto:planning@infrastructure-ni.gov.uk)

Website: [www.infrastructure-ni.gov.uk/topics/planning](http://www.infrastructure-ni.gov.uk/topics/planning)



A feedback form is attached at Annex 1, with some questions under key headings which may help structure your return. I would be grateful if you could complete and return Annex 1 to the Local Government lead **Sandra Adams** at: [Sandra.Adams@midandeastantrim.gov.uk](mailto:Sandra.Adams@midandeastantrim.gov.uk) on or before **27<sup>th</sup> October 2023**.

Following the review, DfI intends to consult with the public and wider stakeholders on any proposed revisions to the Regulations. It is anticipated that this public consultation exercise will take place early in 2024. The Council will have a further opportunity to provide feedback on any proposed revisions during this public consultation period.

If you have any questions, or you would like to discuss further, please do not hesitate to contact me.

Yours sincerely



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**ALISTAIR BEGGS**  
Chief Planner  
Director of Regional Planning Policy and Casework

## Questionnaire

The table below presents a series of questions examining potential issues with the current regulations as outlined in the Schedule of The Planning (Local Development Plan) Regulations (Northern Ireland) 2015 (legislation.gov.uk).

Part	Questions	Suggested Changes	Justification and Reasoning
<b>1. The number and role of consultation bodies in 2(1) of the Planning (Local Development Plan) Regulations 2015</b>			
<p><b>PART 1</b> <b>General</b></p>	<p>Q1. Does the Council have any operational evidence which might suggest that the number of consultation bodies should be reduced under (2(1) of the LDP Regulations 2015? (If this is the case, stipulate the criterion to which it relates and any difficulty posed in the justification and reasoning column followed by any suggested changes that you consider may overcome the issue)</p>	<ul style="list-style-type: none"> <li>• Under 2(1) of the LDP Regulations 2015 criterion (f), (g) &amp; (h) should be removed from the interpretation of ‘consultation bodies’ as outlined below; and,</li> <li>• An additional criterion should be added which places responsibility on DfI to publish a list of consultation bodies who fall under (f), (g) &amp; (h) <u>and</u> have apparatus / interests in Northern Ireland to be consulted. (This could be updated annually or upon request).</li> </ul> <p>2.—(1) In these Regulations— “consultation bodies” means— (a) Northern Ireland government departments, (b) the council for any district which adjoins that of the council carrying out the consultation, (c) a water or sewerage undertaker, (d) the Northern Ireland Housing Executive, (e) the Civil Aviation Authority, <del>(f) any person to whom the electronic communications code applies by virtue of a direction given under section 106(3) of the Communications Act 2003(a);</del> <del>(g) any person to whom a licence has been granted under Article 10(1) of the Electricity</del></p>	<p>Removal of criterion 2(1)(f), (g) &amp; (h) from the definition of ‘consultation body’:</p> <ul style="list-style-type: none"> <li>• Extensive unnecessary consultation currently required with consultation bodies with no legitimate business interest in Northern Ireland.</li> <li>• This is supported by the sample of data summarised below which demonstrates minimal representations received from bodies consulted under criterion (f), (g) and (h).</li> </ul> <p>POP – Public Consultation:</p> <ul style="list-style-type: none"> <li>• (f) 112 bodies consulted (109 based outside NI), 1 representation received (SSE) = 0.89% response rate.</li> <li>• (g) 74 bodies consulted (14 based outside NI), 6 representations received = 8.11% response rate.</li> <li>• (h) 25 bodies consulted (10 based outside NI), no representations received.</li> <li>• <b>In summary, 7 representations received from 211 ‘consultation</b></li> </ul>

		<p>(Northern Ireland) Order 1992(b);  (h) any person to whom a licence has been granted under Article 8 of the Gas (Northern Ireland) Order 1996(c);</p>	<p><b>bodies’ consulted under (f), (g) and (h).</b></p> <ul style="list-style-type: none"> <li>• <b>Equates to a response rate of 3.32%.</b></li> </ul> <p>DPS – Public Consultation</p> <ul style="list-style-type: none"> <li>• (f) 174 bodies consulted (165 based outside NI), 5 representations received = 2.87% response rate.</li> <li>• (g) 90 bodies consulted (18 based outside NI), no representations received.</li> <li>• (h) 29 bodies consulted (15 based outside NI), no representations received.</li> <li>• <b>In summary, 5 representations received from 293 ‘consultation bodies’ consulted under (f), (g) and (h).</b></li> <li>• <b>Equates to a response rate of 1.71%.</b></li> </ul> <p>This extensive consultation is further exacerbated by the fact the bodies which qualify under criterion (f), (g) and (h) are continually changing and lists must be updated / amended at each and every stage.</p> <p>The Council acknowledges that while few representations were received from bodies falling under criterion (f), (g) and (h) and returns in terms of numbers were low, representations were received from bodies who are key operators in Northern Ireland, e.g NIE and SONI (consulted under criterion (g)). These consultation bodies provided key information in relation to essential electricity lines which helped shaped policy.</p>
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			<p>Consequently, we have suggested that DfI compile a reduced list of consultees for clarity and remove any ambiguity as well as consistency across all Councils.</p>
	<p>Q2. Do you consider that the role of Consultation Bodies at 5; 9(1); 10(c); 15(c); 17(e); 21(c); 22(1)(a); 23(c) should change? (If so, please state how and provide evidence as to why this is the case)</p>	<p>5: The council must, in the preparation of the timetable, consult the planning appeals commission and such of the consultation bodies as the council considers appropriate.</p> <p>9.(1) Before a council complies with regulation 11, it must, for the purpose of generating alternative strategies and options, engage the consultation bodies.</p> <p>10.(c) <del>send to notify</del> the consultation bodies <del>that the information set out at paragraph (a) is available to view on its website;</del></p> <p>15.(c) <del>send to notify</del> the consultation bodies <del>that the information a copy of the documents set out in paragraph (a) is available to view on its website</del></p> <p>17(e); notify the consultation bodies <del>that the information set out in paragraph (a) of the fact that representations are is available to view on its website for inspection and the places and times at which they can be inspected</del></p> <p>(See Part 3 for other associated changes to Regs 10, 15 and 17)</p> <p>21(c) notify the consultation bodies <del>that the information set out of the fact that the development plan document and the documents mentioned in paragraph (a) is are available to view on its website for inspection and the places and times at which they can be inspected</del></p>	<p>5: No change required as it allows council to use its discretion in determining appropriate consultation bodies, in addition to the PAC.</p> <p>9.(1) Providing a significantly streamlined list of consultation bodies at (f), (g) and (h) as outlined at Q1 is adopted, the engagement of said bodies will result in a better use of councils time and resources. The term ‘engage’ suggests participation, interest and attention, however the current definition of ‘consultation bodies’ at (f), (g) and (h) in most cases resulted in the opposite.</p> <p>The requirement to make documents available for inspection at Council offices at 10(c), 15(c) and 17(e) is unnecessary and resource intensive considering their availability online via the Council website. Few requests were received to view the documents in person however should such a request be received, the Council could make provisions to facilitate this either electronically or in hard copy.</p> <p>No changes are suggested to 21(c) and 23(c) provided a revised definition of consultation bodies as suggested in Q1 is included.</p>

		<p>22.(1) (a) notify the consultation bodies of the matters referred to in paragraph (2),</p> <p>23(c) notify the consultation bodies of that fact;</p>	
<p><b>PART 2 Timetable</b></p>	<p>Q3. The basis for consulting the Consultation Bodies at Regulation 5 differs from the requirements for consultation elsewhere by requiring the Council to consult ‘such of the consultation bodies as the council considers appropriate’. Based on your experience to date what has been the practice of consulting for the purposes of preparing the Timetable?</p>	<p>5. The council must, in the preparation of the timetable, consult the planning appeals commission and such of the consultation bodies as the council considers appropriate.</p>	<p>Initial timetable February 2016, revised September 2018 and July 2020.</p> <ul style="list-style-type: none"> <li>• No change required as it allows council to use its discretion in considering which consultation bodies to engage with.</li> <li>• Aside from the PAC, others included DfI, DOE, NIEA HED / NED, NIW, TNI Western, DfI Rivers, HSENI, Invest NI, NIHE, Loughs Agency, DfE GSNI, SES.</li> <li>• No concerns raised by consultation bodies re revised timetables.</li> </ul>

2. The provisions for the commencement & duration of consultation periods 11(3); 16(2); 18(2) in the Planning (Local Development Plan) Regulations 2015			
<p><b>PART 3 POP</b></p>	<p>Q4. Based on your experience of consultation to date, suggestions on potential changes (if any) to the period outlined in 11(3) would be welcomed. (Please note that any changes should be suitably justified and supported by evidence)</p> <p>(3) The period referred to in paragraph (2)(a) must be a period of not less than 8 weeks or more than 12 weeks starting on the day on which the council complies with regulation 10(a)</p>	<p>Retain the flexibility of the 8 to 12 week period but amend / simplify and provide consistency across regulations 11, 16 and 18 and associated regulations 10, 15 and 17 with similar cross-referencing adopted.</p> <p><b>Public consultation on the preferred options paper</b></p> <p><b>11.</b>—(1) Any person may make representations about a council’s preferred options paper.</p> <p>(2) Any such representations must be—</p> <p>(a) made within a period of <b>not less than 8 weeks or more than 12 weeks starting on a date specified by the Council in 10(a)(vi) which the council specifies</b>, and</p> <p>(b) sent to the address <b>and/or email address</b> specified pursuant to regulation 10(a)(<del>iv</del>) (vii).</p> <p><del>(3) The period referred to in paragraph (2)(a) must be a period of not less than 8 weeks or more than 12 weeks starting on the day on which the council complies with regulation 10(a).</del></p> <p><del>(4)</del> (3) A council must take account of any representations made in accordance with paragraph (2) before it prepares a development plan document</p> <p><b><u>Amend Regulation 10 as below:</u></b></p> <p><b>Availability of the preferred options paper</b></p> <p><b>10.</b> Before a council prepares a development plan document it must—</p> <p>(a) make the following documents <b>and information available to view on its website, on or before the date specified by the Council in 10(a)(vi) available for</b></p>	<p>The Council welcome the flexibility afforded by 11(3) which allows the period to range between 8 to 12 weeks. This allows the Council to take account of statutory holidays and avoid closing consultation periods on bank holidays etc.</p> <p>The Council suggest clarity is provided and any ambiguity removed to the commencement of the consultation period by placing a requirement for the Council to specify a start date.</p> <p>Other additional amendments are suggested to simplify and provide consistency across regulations 11, 16 and 18.</p> <p><b><u>Associated and suggested amendments to Regulation 10</u></b></p> <p>Given the prevalence of communication and the viewing of information online alongside the Councils aims to deliver services in more sustainable ways, we suggest that the requirement to provide hard copies of documents to the principal Council offices be removed. This exercise required use of extensive resources with three copies of the relevant documents provided. Notably the viewing of hard copies by the public was seldom used, instead online viewing via our website was the preferred method.</p> <p>For purposes of accessibility, alternative provisions can be made to view documents</p>

		<p><del>inspection during normal office hours at the places referred to in paragraph (b) —</del></p> <p>(i) a copy of the preferred options paper,</p> <p>(ii) such supporting documents as in the opinion of the council are relevant to that paper,</p> <p>(iii) the title of the local development plan</p> <p>(iv) a brief description of the content and purpose of the preferred options paper,</p> <p>(v) details of how further information on the preferred options paper may be obtained</p> <p>(vi) <del>(iii) a document containing</del> a statement of the fact that the preferred options paper is available to view on its website and <del>indicating</del> the period <del>specified by the council under regulation 11(2) as the period</del> within which representations on the preferred options paper may be made, <del>starting on a date specified by the Council,</del></p> <p><del>(iv)</del> (vii) notice of the address and email address to which representations are to be sent.</p> <p><del>(b) the places referred to in paragraph (a) are —</del></p> <p><del>(i) the council's principal offices, and</del></p> <p><del>(ii) such other places within the council district as the council considers appropriate;</del></p> <p>(b) <del>(e) send to</del> notify the consultation bodies that the information set out at paragraph (a) is available to view on its website;</p> <p><del>(d)</del> (c) give notice by local advertisement of the information referred to in 10(a)(iii)(iv)(v)(vi) and (vii) following —</p>	<p>upon request. Councils will be bound to make such provisions under equality legislation.</p> <p>In addition, for the same reasons above, we consider that consultation bodies (with the revised definition suggested in Q1) should only be <u>notified</u> that the information is available on the Council website as opposed to sending copies as currently stipulated by 10(c).</p> <p>The regulations should also be amended to take account of emails as the preferred method of submission by adding “and email address” as suggested to 11(2)(b) and 10(a)(vii) – see over.</p> <p>In relation to representations received to our Draft Plan Strategy, there were a total of 241 received, approximately 75% via email, 3% via an online survey and 22% by post. The demonstrates the prevalence of electronic communication.</p> <p>Additional suggested amendments to regulation 10 are provided in effort to simplify and remove duplication of information. This will improve consistency and ensure the notice by local advertisement provides the same information as the website.</p>
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		<p><del>(i)the title of the local development plan;</del></p> <p><del>(ii)a statement of the fact that the preferred options paper is available for inspection and the places and times at which it can be inspected;</del></p> <p><del>(iii)a brief description of the content and purpose of the preferred options paper; and</del></p> <p><del>(iv)details of how further information on the preferred options paper may be obtained; and</del></p> <p><del>(e)publish on its website—</del></p> <p><del>(i)the preferred options paper;</del></p> <p><del>(ii)such supporting documents as in the opinion of the council are relevant to the preferred options paper; and</del></p> <p><del>(iii)the document mentioned in paragraph (a)(iii) and notice mentioned in paragraph (a)(iv);</del></p>	
	<p>Q5. Based on your experience of consultation to date, suggestions on potential changes (if any) to the period outlined in 16(2) would be welcomed. (Please note that any changes should be suitably justified and supported by evidence)</p>	<p><b>Public consultation on a development plan document</b></p> <p><b>16.</b> (1) Any person may make representations about a development plan document.</p> <p>(2) Any such representations must be—</p> <p>(a)made within a period of <b>not less than 8 weeks or more than 12 weeks starting on a date specified by the Council in 15(a)(v) <del>of 8 weeks starting on the day the council complies with regulation 15(d);</del></b> and</p> <p>(b)sent to the address <b>and/or email address</b> specified pursuant to regulation 15(a)(vi).</p> <p>(Note: 15(a) should also be amended to ensure documents are available <u>on or before</u> the “date specified by the Council”. Also remove the</p>	<p>The Council suggest that there should be consistency in approach across the regulations. Regulations 11(3), 16(2) and 18(2) should be amended to reflect one another.</p> <p><b><u>Regulation 16</u></b></p> <p>In relation to the consultation period, the timeframe for submission of representations should be amended to reflect Regulation 11 with a range of 8 to 12 weeks. This flexibility would be helpful for the reasons outlined in Q4 while also reducing risk.</p> <p>We note that in terms of the consultation period for representations, 16(2) states “made within a period of 8 weeks starting on the day the</p>



		<p>requirement to make available hard copies for inspection and include / take account of email submissions – see below)</p> <p><b><u>Amend Regulation 15 as below:</u></b></p> <p><b>Availability of a development plan document</b></p> <p><b>15.</b> Before submitting a development plan document to the Department under section 10 the council must—</p> <p>(a)make the following documents and information available to view on its website, on or before the date specified by the Council in 15(a)(v) <del>for inspection during normal office hours at the places referred to in paragraph (b) —</del></p> <p>(i) a copy of the development plan document,</p> <p>(ii)a copy of the sustainability appraisal report under section 8(6)(b) or 9(7)(b), as the case may be,</p> <p>(iii)such supporting documents as in the opinion of the council are relevant to the preparation of the local development plan,</p> <p>(iv)<del>a document containing</del> the title of the Development Plan Document</p> <p>(v) a statement of the fact that the development plan document is available to view on its website and <del>indicating</del> the period within which representations on the development plan document may be made, starting on a date specified by the Council, and</p> <p>(vi)notice of the address and email address to which representations can be sent;</p> <p><del>(b)the places referred to in paragraph (a) are—</del></p>	<p>council complies with regulation 15(d)”, where 15(d) refers to,</p> <p>“(d)give notice in the Belfast Gazette and by local advertisement of the following—</p> <p>(i)the title of the development plan document, and</p> <p>(ii)a statement of the fact that the development plan document is available for inspection and the places and times at which it can be inspected.”</p> <p>This links the consultation period to the date at which the Council gives notice (as opposed to the date when the documents are made available for inspection as per 11(3)). When considering the definition of ‘local advertisement’, compliance is therefore when the notice first appears in a local paper in the second consecutive week.</p> <p>16(2) should be amended to remove this link to 15(d) (the notice) and simply refer to a date specified by the Council (as suggested). The date specified by the Council should be outlined in Reg 15 to ensure all documents are made available to view via the website on or before the consultation period and the “date specified by the Council”.</p> <p><b><u>Associated and suggested amendments to Regulation 15</u></b></p> <p>Associated amendments to regulation 15 are provided to take account of suggested changes to reg 16. For consistency, additional changes</p>
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		<p><del>(i) the council's principal offices, and</del></p> <p><del>(ii) such other places within the council district as the council considers appropriate;</del></p> <p><del>(e) (b) send to</del> notify the consultation bodies that the information <del>a copy of the documents</del> set out in paragraph (a) <del>is available to view on its website</del></p> <p><del>(d) (c) give notice in the Belfast Gazette and by local advertisement of the following— the information referred to in 15(a)(iv), (v) and (vi).</del></p> <p><del>(i) the title of the development plan document, and</del></p> <p><del>(ii) a statement of the fact that the development plan document is available to view on its website and the period for inspection and the places and times at which it can be inspected; and</del></p> <p><del>(e) publish on its website—</del></p> <p><del>(i) the development plan document,</del></p> <p><del>(ii) such of the supporting documents as in the opinion of the council are relevant, and</del></p> <p><del>(iii) the notice mentioned in paragraph (a)(iv).</del></p>	<p>are proposed to reg 15 to reflect reg 10 for the reasons outlined in Q4.</p>
<p><b>PART 5 DPD Procedure</b></p>	<p>Q6. Based on your experience of consultation to date, suggestions on potential changes (if any) to the period outlined in 18(2) would be welcomed. (Please note that any changes should be suitably justified and supported by evidence)</p>	<p>Amend 18(2) to a similar format to 16(2) and 11(3)</p> <p><b>18.—</b>(1) Any person may make representations about a site specific policy representation (in regulations 17, 19 and this regulation referred to as “counter representations”).</p> <p>(2) Counter representations must be—</p> <p>(a) made within a period of not less than 8 weeks or more than 12 weeks starting on a date specified by the Council in regulation 17(1)(a)(ii) <del>of 8 weeks starting</del></p>	<p>The counter representation should be amended to a period of 8 to 12 weeks with the same flexibility provided and suggested to 11(3) and 16(2) for the reasons outlined in Q4. Whilst acknowledging the additional time may not always be required, this flexibility gives Councils discretion to adjust this period as necessary.</p>

	<p><del>on the day the council complies with regulation 17(1)(a), and</del></p> <p>(b) sent to the address <del>and/or email address</del> specified pursuant to <del>in</del> regulation 17(1)(a)(iii).</p> <p>(3) Counter representations must not propose any changes to the development plan document.</p> <p>Amend regulation 17 as below (adopting similar format and structure to 15).</p> <p><b><u>Amend Regulation 17 as below:</u></b></p> <p><b>Availability of representations on a development plan document</b></p> <p><b>17.—</b>(1) As soon as reasonably practicable after the expiry of the period referred to in regulation 16(2)(a) the council must—</p> <p>(a) make the following documents <del>and information available to view on its website, on or before the date specified by the Council in 15(a)(ii) available for inspection at the places referred to in paragraph (b)—</del></p> <p>(i) a copy of the representations,</p> <p>(ii) <del>a document containing</del> a statement of the fact that the representations are available to view on its website and <del>indicating</del> the period <del>time</del> within which counter representations may be made, <del>starting on a date specified by the Council,</del> and</p> <p>(iii) notice of the address <del>and email address</del> to which counter representations can be sent;</p>	<p>For example, where a high volume of representations including those with extensive content have been received, additional time may be required to allow interested parties and consultee bodies to review all representations and formulate their response (if any). The Council received a total of 241 representations, some extending almost 300 pages long. This should be taken into consideration when defining the counter representation period.</p> <p>It is also worth noting that should another Council wish to submit a counter representation, they will need sufficient time to review all representations, draft their response and obtain agreement from Planning Committee who only meet monthly. Our experience suggests that 8 weeks in some cases may not be a realistic timeframe for other Councils to secure this agreement.</p> <p><b><u>Associated and suggested amendments to Regulation 17</u></b></p> <p>Associated amendments to regulation 17 are provided to reflect the suggested changes to reg 18.</p> <p>For consistency, additional changes are proposed to reg 17 to reflect reg 10 and 15 for the reasons outlined in Q4.</p>
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<p>Q7. Based on your experience, do you consider that the consultation periods for each part of the LDP process under 11(3), 16(2), 18(2) should be equal?</p>	<p>The periods should not necessarily be the same but should all be afforded the same flexibility giving the Council discretion. All periods outlined in 11(3), 16(2) and 18(2) should read;</p> <p>i.e. “a period of not less than 8 weeks or more than 12 weeks starting on the day on which the council complies with regulation 10(a)(vi) / 15(a)(v) /17(1)(a)(ii)” (as per above suggestions - refer to Q4, 5 and 6 answers).</p>	<p>To provide flexibility and allow Council’s to take into account holiday periods, make adjustments to work around planning committee and full Council deadlines which occur on monthly basis.</p>
<p>Q8. Based on your experience, do you consider that the consultation periods for each part of the LDP process under 11(3), 16(2), 18(2) should vary?</p>	<p>Refer to Q7 above.</p>	<p>The Counter Representation period outlined in 18(2) may not require the same length of time as 11(3) and 16(2) however flexibility should be provided to give Councils discretion to adjust this period as necessary- see Q6 &amp; Q7 answer.</p>
<p>Q9. Based on your experience, do you consider the current wording of 11(3), 16(2), 18(2) of the LDP Regulations creates uncertainty regarding the start and finish date/overall duration of consultation? (If the answer is yes, please demonstrate to which part of the Regulations this relates and how you consider this to be the case)</p>	<p>See answers to question 4, 5 and 6 for justification for other suggested amendments to regulations 11(3), 16(2) and 18(2).</p> <p><b>11.—</b>(1) Any person may make representations about a council’s preferred options paper.</p> <p>(2) Any such representations must be—</p> <p>(a)made within a period of <b>not less than 8 weeks or more than 12 weeks starting on a date specified by the Council in 10(a)(vi) which the council specifies</b>, and</p> <p>(b)sent to the address <b>and/or email address</b> specified pursuant to regulation 10(a)(<del>iv</del>) (vii).</p>	<p>Yes. There is uncertainty around the reference to consultation periods, specifically the date of compliance referred to as “starting on the day the Council complies with ....”</p> <p>Inconsistencies are evident when you consider the commencement of the POP consultation period is determined by the provision of documents in for inspection in Council offices, whereas the DPS consultation period is related to the to the ‘notice’.</p> <p>This should be rewritten as suggested with reference to “a date specified by the Council” used instead to remove uncertainty. An explanatory note could be provided in relation to</p>

	<p><b>16.</b> (1) Any person may make representations about a development plan document.</p> <p>(2) Any such representations must be—</p> <p>(a) made within a period of not less than 8 weeks or more than 12 weeks starting on a date specified by the Council in 15(a)(v) <del>of 8 weeks starting on the day the council complies with regulation 15(d)</del>; and</p> <p>(b) sent to the address and/or email address specified pursuant to regulation 15(a)(vi).</p> <p><b>18.—</b>(1) Any person may make representations about a site specific policy representation (in regulations 17, 19 and this regulation referred to as “counter representations”).</p> <p>(2) Counter representations must be—</p> <p>(a) made within a period of not less than 8 weeks or more than 12 weeks starting on a date specified by the Council in regulation 17(1)(a)(ii) <del>of 8 weeks starting on the day the council complies with regulation 17(1)(a)</del>; and</p> <p>(b) sent to the address and/or email address specified pursuant to <del>in</del> regulation 17(1)(a)(iii).</p> <p>(3) Counter representations must not propose any changes to the development plan document.</p>	<p>the closing date if considered necessary to provide clarity.</p> <p>All references to consultation periods should be approached in the same manner, note: 11(3) compliance refers to 10(a) when the documents are made available for inspection while 16(2) refers to 15(d) when notice is given in Belfast Gazette and by local advertisement.</p> <p>This should be simplified and linked to a date specified by the Council on its website.</p>
<p><b>PART 5 DPD Procedure</b></p> <p>Q10. If the answer is yes to Q8, do you believe an explanation in the LDP Regulations Explanatory note could be suffice to address any perceived concern? (If so, please provide suggested wording for this approach)</p>	<p>See above answers.</p>	

<p>Q11. Do you believe there is merit in amending the wording of the LDP Regulations to be more specific regarding the start and finish period for consultation? (If this is the case, please specify the part of the regulations to which this applies and suggestions on how this may be done)</p>	<p>See above answers.</p>	<p>Regulations should be amended to provide more certainty by specifying a date for the start of the consultation period. If considered necessary an explanatory note could be provided for clarity on closing dates / times.</p> <p>However, extending all periods to range from 8 to 12 weeks will allow Councils to take a precautionary approach in defining closing dates.</p>
<p><b>3. Timetable, Publicity and notification requirements of the Planning (Local Development Plan) Regulations 2015</b></p>		
<p>Q12. The LDP Timetable is an important project management tool, based on your experience to date, do you think there is merit in submitting a timetable for each stage of the LDP process as you approach that stage?</p>		<p>Yes, the complexity of the LDP process and various delays that we have experienced to date (which are outside of our control) means it becomes quickly outdated. The Council has amended the initial 2016 timetable on two occasions and currently await a response from DfI to inform a further revision. Considering we have not yet reached LPP stage more revisions are likely in the future. It is therefore evident that the timetable for the whole LDP process is not reliable and this should be addressed.</p> <p>This is particularly pertinent in the context of soundness test P1 “Has the DPD been prepared in accordance with the council’s timetable and the Statement of Community Involvement?”.</p>

<p><b>PART 2 Timetable</b></p>			<p>It therefore is sensible to provide a timetable specific to the stage of the process alongside a flowchart outlining the overarching LDP process and the Council’s position within it.</p>
	<p>Q13. Based on your experience should there be a change to the requirement for the timetable to be agreed by full resolution of the Council under 7(1)(a) of the LDP Regulations? (Please note that any changes should be suitably justified and supported by evidence)</p>		<p>It is considered that Planning Committee are best placed to make decisions on the LDP timetable. The requirement for the timetable to be agreed by resolution of the Council creates further unnecessary delay. It is worth noting that Full Council meetings usually occur on a monthly basis with exception of May (this year) due to the election and August due to summer recess.</p>
	<p>Q14. Based on your experience should there be a change to the current publicity and availability requirement under 8(1) (a) and (b) of the LDP Regulations? (Please note that any changes should be suitably justified and supported by evidence)</p>	<p><b>Availability of the timetable</b></p> <p><b>8.—(1) Where a timetable is agreed or deemed to be agreed under regulation 7, the council must—</b></p> <p><del>(a) make a copy of the agreed timetable available for inspection during normal office hours at—</del></p> <p><del>(i) its principal offices, and</del></p> <p><del>(ii) such other places within its district as it considers appropriate;</del></p> <p><del>(b) give notice by local advertisement of the following—</del></p> <p><del>(i) that the timetable is available for inspection,</del></p> <p><del>(ii) the place and times at which it can be inspected; and</del></p> <p><del>(c) publish the timetable on its website.</del></p>	<p>Yes – Reg 8 should be amended with (a) and (b) removed. The Council is not aware of any members of the public calling at Council offices to view the LDP timetable. The Council has however received telephone and email enquires regarding the timetable and members of the public were directed to and were content to view the LDP timetable on our website. The Council would upon request be content to issue or make hard copies available to view.</p> <p>A public notice relating to the timetable is unnecessary as the Regulations require all public consultation periods in the LDP process to be advertised as a minimum by local advertisement.</p>
<p><b>4. Requirements in relation to making available documentation in line with the Planning (Local Development Plan) Regulations 2015</b></p>			

<p><b>PART 3 POP</b></p>	<p>Q15. Based on your experience should there be a change to the current requirements to make available a Preferred Options Paper and associated documentation under 10(a), (b) and (d) of the LDP Regulations? (If so, please state how and provide evidence as to why this is the case)</p>	<p>Refer to Q4 for rationale for suggested amendments to Reg 10. (Copied below for ease of reference).</p> <p><b>Availability of the preferred options paper</b></p> <p>10. Before a council prepares a development plan document it must—</p> <p>(a) make the following documents and information available to view on its website, on or before the date specified by the Council in 10(a)(vi) <del>available for inspection during normal office hours at the places referred to in paragraph (b) —</del></p> <p>(i) a copy of the preferred options paper,</p> <p>(ii) such supporting documents as in the opinion of the council are relevant to that paper,</p> <p>(iii) the title of the local development plan</p> <p>(iv) a brief description of the content and purpose of the preferred options paper,</p> <p>(v) details of how further information on the preferred options paper may be obtained</p> <p>(vi) <del>(iii) a document containing</del> a statement of the fact that the preferred options paper is available to view on its website and <del>indicating</del> the period <del>specified by the council under regulation 11(2) as the period</del> within which representations on the preferred options paper may be made, starting on a date specified by the Council,</p> <p><del>(iv)</del> (vii) notice of the address and email address to which representations are to be sent.</p> <p><del>(b) the places referred to in paragraph (a) are —</del></p> <p><del>(i) the council's principal offices, and</del></p>	
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		<p><del>(ii) such other places within the council district as the council considers appropriate;</del></p> <p><del>(b) (c) send to notify</del> the consultation bodies the information set out at paragraph (a) <del>is available to view on its website;</del></p> <p><del>(d) (c)</del> give notice by local advertisement of the information referred to in 10(a)(iii)(iv)(v)(vi) and (vii) following—</p> <p><del>(i) the title of the local development plan;</del></p> <p><del>(ii) a statement of the fact that the preferred options paper is available for inspection and the places and times at which it can be inspected;</del></p> <p><del>(iii) a brief description of the content and purpose of the preferred options paper, and</del></p> <p><del>(iv) details of how further information on the preferred options paper may be obtained; and</del></p> <p><del>(e) publish on its website—</del></p> <p><del>(i) the preferred options paper;</del></p> <p><del>(ii) such supporting documents as in the opinion of the council are relevant to the preferred options paper, and</del></p> <p><del>(iii) the document mentioned in paragraph (a)(iii) and notice mentioned in paragraph (a)(iv).</del></p>	
	<p>Q16. Based on your experience should there be a change to the current requirements to make available a development plan document under 15(a), (b) and (d) of the LDP Regulations?</p>	<p>Refer to Q5 for rationale for suggested amendments to Reg 15. (Copied below for ease of reference)</p> <p><b>Availability of a development plan document</b></p>	

<p>(If so, please state how and provide evidence as to why this is the case)</p>	<p><b>15.</b> Before submitting a development plan document to the Department under section 10 the council must—</p> <p>(a) make the following documents and information available to view on its website, on or before the date specified by the Council in 15(a)(v) <del>for inspection during normal office hours at the places referred to in paragraph (b) —</del></p> <p>(i) a copy of the development plan document,</p> <p>(ii) a copy of the sustainability appraisal report under section 8(6)(b) or 9(7)(b), as the case may be,</p> <p>(iii) such supporting documents as in the opinion of the council are relevant to the preparation of the local development plan,</p> <p>(iv) <del>a document containing</del> the title of the Development Plan Document</p> <p>(v) a statement of the fact that the development plan document is available to view on its website and <del>indicating</del> the period within which representations on the development plan document may be made, starting on a date specified by the Council, and</p> <p>(vi) notice of the address and email address to which representations can be sent;</p> <p><del>(b) the places referred to in paragraph (a) are—</del></p> <p><del>(i) the council's principal offices, and</del></p> <p><del>(ii) such other places within the council district as the council considers appropriate;</del></p> <p><del>(c) send to the consultation bodies a copy of the documents set out in paragraph (a);</del></p>	
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		<p><del>(d)</del> (b) give notice in the Belfast Gazette and by local advertisement of the <del>following— the information referred to in 15(a)(iv), (v) and (vi).</del></p> <p><del>(i) the title of the development plan document, and</del></p> <p><del>(ii) a statement of the fact that the development plan document is available to view on its website and the period for inspection and the places and times at which it can be inspected; and</del></p> <p><del>(e) publish on its website—</del></p> <p><del>(i) the development plan document,</del></p> <p><del>(ii) such of the supporting documents as in the opinion of the council are relevant, and</del></p> <p><del>(iii) the notice mentioned in paragraph (a)(iv).</del></p>	
<p><b>PART 5 DPD Procedure</b></p>	<p>Q17. Based on your experience should there be a change to the current requirements to make available representations under Regulation 17(1) and 19(1) of the LDP Regulations? (Please note that any changes should be suitably justified and supported by evidence)</p>	<p>Refer to Q6 for rationale for suggested amendments to Reg 17. (Copied below for ease of reference).</p> <p><b>Availability of representations on a development plan document</b></p> <p><b>17.—</b>(1) As soon as reasonably practicable after the expiry of the period referred to in regulation 16(2)(a) the council must—</p> <p>(a) make the following documents and information available to view on its website, on or before the date specified by the Council in 15(a)(ii) <del>available for inspection at the places referred to in paragraph (b)—</del></p> <p>(i) a copy of the representations,</p> <p>(ii) <del>a document containing</del> a statement of the fact that <del>the representations are available to view on its website</del></p>	

	<p>and <del>indicating</del> the <del>period time</del> within which counter representations may be made, <del>starting on a date specified by the Council</del>, and</p> <p>(iii) notice of the address <del>and email address</del> to which counter representations can be sent;</p> <p>(c) publish the representations on its website;</p> <p>(d) <del>give notice in the Belfast Gazette and by local advertisement of the fact that representations are available for inspection and the places and times at which they can be inspected;</del></p> <p>(e) <del>notify the consultation bodies of the fact that representations are available for inspection and the places and times at which they can be inspected; and</del></p> <p>(f) notify any person who has made (and not withdrawn) a representation in accordance with regulation 16(2) of those matters.</p> <p>19.(1) <u>Counter representations</u>: As soon as reasonably practicable after the expiry of the period referred to in regulation 18(2)(a) the council must—</p> <p>(a) <del>make a copy of the counter representations available for inspection during normal office hours at—</del></p> <p>(i) <del>its principal offices, and</del></p> <p>(ii) <del>such other places within the district of the council as the council considers appropriate; and</del></p> <p>(b) publish the <del>counter representations</del> <del>this information</del> on its website.</p>	
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<p>Q18. Based on your experience should there be a change to the current requirements to make available submission documents under Regulation 21 of the LDP Regulations? (Please note that any changes should be suitably justified and supported by evidence)</p>	<p><b>21.</b> As soon as reasonably practicable after a council submits a development plan document to the Department it must—</p> <p>(a) make the following documents and information available to view on its website <del>available for inspection at the places referred to in paragraph (b)</del> —</p> <p>(i) a copy of the development plan document,</p> <p>(ii) the documents specified in regulation 20(2), and</p> <p>(iii) such other documents as in the opinion of the council are relevant to the preparation of the development plan document;</p> <p><del>(b) the places referred to in paragraph (a) are—</del></p> <p><del>(i) the council's principal offices, and</del></p> <p><del>(ii) such other places in the district of the council as the council considers appropriate;</del></p> <p>(c) (b) notify the consultation bodies <del>that the information set out of the fact that the development plan document and the documents mentioned in paragraph (a) is</del> are available to view on its website <del>for inspection and the places and times at which they can be inspected.</del></p> <p>(d) notify any person who has made (and not withdrawn) a representation in accordance with regulation 16(2) or 18(2) of those matters;</p> <p><del>(e) give notice in the Belfast Gazette and by local advertisement of the fact that the development plan document has been submitted to the Department; and</del></p> <p><del>(f) publish the notice mentioned in paragraph (e) on its website.</del></p>	<p>The submission of the Development Plan Document and accompanying information is not an opportunity for engagement with the public or consultee bodies. Regulation 21 should therefore be amended to simply notify the relevant parties that the submission has been made.</p> <p>Again for the reasons previously laid out, the requirement to make available all documents in hard copy at Council offices is resource extensive and costly and contrar to sustainability objectives. The Council are not aware of any requests to view the submission documents in hard copy however enquires received by phone or email have been directed to our website which proved to be suffice. This requirement to place hard copies for inspection at Council offices, similarly to other recommendations should be removed.</p> <p>Should the requirement to notify consultation bodies and any person who has made a rep or counter-rep be retained, this negates the need to place an advertisement in the Belfast Gazette and by local advertisement, consequently part (e) and (f) could be removed as no further public participation is being invited.</p>
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<p>Q19. Based on your experience should there be a change to the current requirements to make available the adopted development plan document and associated documentation under Regulation 24(3)(a)-(d) of the LDP Regulations? (Please note that any changes should be suitably justified and supported by evidence)</p>	<p>Mid Ulster District Council have not yet reached this stage however for the reasons previously discussed we recommend removing the requirement to place hard copies in Council offices to be replaced with provision of the information on the Council website.</p>	
<p><b>5. Submission of plan documentation required by the Planning (Local Development Plan) Regulations 2015</b></p>		
<p><b>PART 5 DPD Procedure</b></p>	<p>Q20. Based on your experience should there be a change to the requirements surrounding the submission of documents for Independent Examination under Regulation 20 of the LDP Regulations? (If so, please state how and provide evidence as to why this is the case)</p>	<p><b>Submission of documents for independent examination</b></p> <p><b>20.—</b>(1) Before a council submits a development plan document to the Department under section 10, it must consider representations made under regulation 16 and, as the case may be, regulation 18.</p> <p>(2) The documents prescribed for the purposes of section 10(3) are—</p> <p>(a)the report under section 8(6)(b) or, as the case may be, section 9(7)(b),</p> <p>(b)the statement of community involvement,</p> <p>(c)evidence that the council has complied with its statement of community involvement,</p> <p>(d)copies of the notices referred to in regulation 10(a)(iv), 15(a)(iv), and 17(1)(a)(iii),</p> <p>(e)the timetable,</p> <p>(f)a statement setting out—</p> <p>20(d) to be amended as applicable to any changes implemented to 10, 15 and 17.</p> <p>The submission to Department should be via electronic communication for the aforementioned reasons with no requirement for provision of hard copies.</p>

		<p>(i) a summary of the main issues raised in representations made in accordance with regulation 11(2), and</p> <p>(ii) how those main issues have been taken into account in the preparation of the development plan document;</p> <p>(g) a statement setting out—</p> <p>(i) if representations were made in accordance with regulation 16(2) or 18(2), the number of representations made and a summary of the main issues raised in those representations, or</p> <p>(ii) that no such representations were made;</p> <p>(h) copies of any representations made in accordance with regulation 16(2) or 18(2), and</p> <p>(i) such supporting documents as in the opinion of the council are relevant to the preparation of the development plan document.</p> <p>(3) The council must also send to the Department <b>via electronic communication</b> —</p> <p>(a) where the development plan document is a plan strategy, a copy of that plan strategy, or</p> <p>(b) where the development plan document is a local policies plan—</p> <p>(i) a copy of that local policies plan, and</p> <p>(ii) a copy of the adopted plan strategy</p>	
<p><b>Please add any other comments.</b></p>			
<ul style="list-style-type: none"> <li>• The definition of consultation body should be redefined to remove onerous and unnecessary consultation with bodies who have no interest / apparatus in N.I.</li> <li>• The timetable should provide an overview of the LDP process, i.e. POP. DPS and LPP however to avoid numerous revisions, timeframes should only be stipulated for the stage at which the Council is at.</li> </ul>			

- The requirement that the timetable be agreed by full resolution of the Council should be removed to avoid unnecessary delay as Planning Committee agreement is considered suffice.
- The regulations are interrelated and therefore amendments to a single part can rarely be considered in isolation. Consistency should be provided across the regulations, with similar stages adopting similar requirements, cross-referencing and wording.
- Consultation periods for the POP, DPD (reps) and DPD (counter reps) should adopt a timeframe of 8 to 12 weeks to afford Council's the necessary flexibility to adjust consultation periods as deemed appropriate.
- The start date of consultation periods should be clearly defined by Councils to remove ambiguity.
- The provision of hard copies of documents in Council offices should be removed and instead documents and information should be placed on the Council's website, supported (where appropriate) by notice in the Belfast Gazette and by local advertisement. This will assist in contributing toward the Council's sustainability objectives and removes unnecessary expense and resourcing. Request to view documents in Council offices can be facilitated upon request.
- The submission of the DPD should be via electronic communication and advertisement of the submission removed given consultation bodies and any person who has made a rep or counter rep will have been notified.

Thank you for taking the time to complete this questionnaire.



<b>Report on</b>	A proposed Customer Survey to gain feedback about the Planning Department from the perspective of agents.
<b>Date of Meeting</b>	7 <sup>th</sup> November 2023
<b>Reporting Officer</b>	Ellen Gilbert, Roisin McAllister
<b>Contact Officer</b>	Dr Chris Boomer.

<b>Is this report restricted for confidential business?</b>  If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	X

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To agree that a survey by questionnaire distributed to agents would be an appropriate method to obtain qualitative and quantitative feedback regarding the operations of the Planning Department with emphasis on Development Management and the new planning IT system. Results from the customer survey to inform our service improvement plan.
<b>2.0</b>	<b>Background</b>
2.1	Members will be aware that the Planning Department in Mid Ulster District Council is operating a different IT system compared to the other 10 councils across Northern Ireland. We wish to establish the views and opinions of agents in relation to our new IT system as well as Development Management procedures and service provision.
2.2	The survey is targeted at agents who have submitted planning applications to the Council and are therefore engaged with the planning department – development management section and have experience the new IT system. Feedback from agents will help to understand levels of satisfaction in terms of the service provided, functionality and usability of the new IT system, views on development Management procedures, how the Planning Department is performing compared to the 10 other councils, as well as identifying any issues, key areas and methods for improvement.
2.3	The new IT planning system was introduced in June 2022. It is therefore an appropriate time to conduct a customer satisfaction survey as the IT system is now well established with both agents and planning staff having adequate time to adapt to using the system. The Development Management section is supported by the IT system so these areas interrelate and a survey focusing on both would be fitting.
2.4	The Council and Planning Department continually strive toward excellence and the customer survey will directly inform our service improvement plan. It will allow us to take into consideration views of agents and tailor services toward improvement.

<b>3.0</b>	<b>Main Report</b>
3.1	Staff across the planning department have been consulted on the survey with questions posed tailored in response in effort to obtain data which will best inform service improvement.
3.2	<p>The survey focuses on the following key themes:</p> <ul style="list-style-type: none"> <li>• Processing times</li> <li>• IT computer system</li> <li>• Communications</li> <li>• Transparency and decision making</li> </ul>
3.3	The draft questionnaire has been collated and is attached in Appendix 1. It will be distributed via email with an online link to 'surveymonkey' (an online questionnaire platform) to several agents as part of a pilot study at the end of October / start Nov.
3.4	Feedback received from the pilot study will be used to finalise the questionnaire before it is issued to a wider pool of agents. A list of email addresses of those who use have submitted planning applications to Council have been obtained.
3.5	The Planning department have sought advice in relation to GDPR and have been advised that distribution to agents can proceed given this is not market research. Direct engagement with agents via email will help to encourage a higher rate of response.
3.6	Approximately a week before the survey is due to go live in mid November, the Marketing and Communications team will publicise our customer survey on social media and on the Mid Ulster Council website. This will continue for the duration of the survey in attempt to reach as wide an audience as possible.
3.7	At the end of the survey there is an opportunity for agents to leave their name, organisation, and email address. This is not mandatory, and the survey can be completed anonymously if desired.
3.8	For agents who wish to complete the survey but don't have access to emails and/or a computer then hard copy can be obtained upon request to ensure it is accessible for all agents. The results from any completed hard copies would be extracted manually by a member of the planning department and integrated into the conclusions from the surveys completed electronically.
3.9	The pilot survey has been tested and requires approximately 10-15 minutes to complete which is considered a reasonable timeframe to expect agents to engage with the process.
3.10	The layout of the answers has also been formatted largely with tick box answers with additional provision to elaborate should they wish. This helps to ensure that

3.11	the survey provides both quantitative and qualitative answers, in other words statistical information supported by detailed reasoning.
3.12	The survey will be run over a period of 4 weeks, with an anticipated opening date of Friday 17 <sup>th</sup> November and closing date of Friday 15 <sup>th</sup> December. This ensures the survey is closed before most agents would finish work for Christmas holidays, but the window is long enough for an appropriate number of responses to be compiled.
3.13	After the close of the survey and the responses analysed, the conclusions will be fed back to members. The responses will also inform into the Planning Service Improvement Plan and provide evidence to support the information discussed within.
3.14	<b>Conclusion</b>
3.15	The pilot survey is currently ongoing and as a result minor changes to the survey may be required. This will ensure the questions are written in such a way that agents can easily understand what is required of them and that the range of answers is identified appropriately.
3.15	Any changes to the final questions are likely to be minimal. Therefore, the Committee is asked to delegate to the Service Director the final detail wording of the questions used within the survey at the close of the pilot survey.
<b>4.0</b>	<b>Other Considerations</b>
4.1	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: N/A
	Human: N/A
	Risk Management: N/A
4.2	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications: N/A
	Rural Needs Implications: N/A
<b>5.0</b>	<b>Recommendation(s)</b>

5.1	That the Planning Department issue a customer survey to agents to aid service improvement and the Service Director be delegated authority to make final changes to the draft Customer Survey Questionnaire attached in appendix 1.
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix 1 – Copy of Pilot Survey Questions



### Mid Ulster District Council Planning Customer Survey

Within Mid Ulster District Council, we strive to continually improve our Planning Department by gaining feedback. With the installation of our new Planning Portal last year, we are seeing continuous changes towards IT and how this can benefit those working within the Planning Department, as well as our customers. We wish to gain a greater insight into how agents are using the IT system alongside the submission and processing of planning applications.

We ask that you complete the questions below open and honestly so we can strive to make meaningful changes to the systems and services we offer.

1. How satisfied are you with the service provided by the Planning Department of Mid Ulster District Council

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why

2. How satisfied are you with the time taken to process planning applications from date validated to date of decision?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why

3. How satisfied are you with the provision and usability of the new IT system incorporating planning portal and public access system?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why

4. How satisfied are you with the communication you receive from Mid Ulster District Council Planning Department?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied
- If you are not satisfied, please explain why

5. How satisfied are you with the transparency of the decision-making process used by Mid Ulster District Council to determine planning applications?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why.

6. How satisfied are you with consultee response times?

- Very satisfied
- Satisfied
- Neither satisfied nor dissatisfied
- Dissatisfied
- Very dissatisfied

If you are not satisfied, please explain why:

7. Have you submitted a planning application online through the Planning Portal on the Mid Ulster District Council website?

- Yes
- No

If not, please explain why

8. Do you find our online forms easy to complete?

- Yes
- No
- Not applicable

If not, please explain why

9. Do you find it easy to make a payment online to accompany a planning application through the Planning Portal?

- Yes
- No
- Not applicable

If not, please explain why

10. Is the submission of applications online through the Mid Ulster Planning Portal your preferred method compared to submission in hard copy?

- Yes
- No
- Not applicable

If not, please explain why

11. Can you make any suggested improvements to the planning portal including online forms, payment system and/or technical issues that you may have experienced which have not been resolved?

12. Are you registered to use Mid Ulster District Council's Public Access System for Planning?

- Yes
- No

If not, please explain why

13. Do you find the tools to track and receive updates on planning applications via the Public Access System useful?

- Yes
- No

If not, please explain why

14. Do you find the tools to view, search and comment on planning applications via Public Access useful?

- Yes
- No

If not, please explain why

15. Do you agree or disagree with the following statement?

A planning application submitted to Mid Ulster District Council's Planning department should be made invalid when insufficient detail or information to access the application is provided.

- Agree
- Disagree
- Don't know

16. Do you agree or disagree with the following statement?

Mid Ulster District Council provides adequate opportunity to allow agents to revise plans in order to obtain planning permission.

- Agree
- Disagree
- Don't know

17. Do you agree or disagree with the following statement?

The Case Officer should request amendments to plans as and when requested by consultee bodies.

- Agree
- Disagree
- Don't know

18. Do you agree or disagree with the following statement?

Revisions to plans should only be requested after all consultee replies are returned and a group decision has been made.

- Agree
- Disagree
- Don't know

19. Do you agree or disagree with the following statement?

Additional surveys should only be requested after all consultee replies are returned and a group decision has been made.

- Agree
- Disagree
- Don't know

20. Do you agree or disagree with the following statement?

It would be better if decision making was sped up by further limiting agents opportunities to provide revised plans.

- Agree
- Disagree
- Don't know



21. Do you agree or disagree with the following statement?

Professional planning staff generally provide helpful advice.

- Agree
- Disagree
- Don't know

22. Do you agree or disagree with the following statement?

Staff within the planning department return my calls and emails.

- Agree
- Disagree
- Don't know

23. Do you agree or disagree with the following statement?

Agents and objectors have adequate opportunity to present their views to the Service Director of Planning and/or at Planning Committee meetings.

- Agree
- Disagree
- Don't know

24. Do you agree or disagree with the following statement?

Planning Applications with an objection should be presented at Planning Committee.

- Agree
- Disagree
- Don't know

25. Do you agree or disagree with the following statement?

Applications recommended for refusal should be given the opportunity to be deferred for further consideration before a decision is made.

- Agree
- Disagree
- Don't know

26. Do you agree or disagree with the following statement?

Applications should only be deferred where there is additional information presented which has not already been considered.

- Agree
- Disagree
- Don't know

27. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in the approachability of its staff and availability of advice?

- Much better
- Better
- About the same
- Worse
- Much worse

28. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in the transparency of its decision making and how it makes sure everyone's views are considered?

- Much better
- Better
- About the same
- Worse
- Much worse

29. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in terms of the ease of use of the Planning Portal and Public Access.

- Much better
- Better
- About the same
- Worse
- Much worse

30. Compared to the other 10 Councils in Northern Ireland, how would you rate Mid Ulster District Council's planning department in terms of the overall service provided?

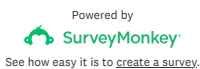
- Much better
- Better
- About the same
- Worse
- Much worse

31. Any other comments or suggestions for improvement can be noted here:

32. Thank you for completing this survey, the answers can be treated as anonymous, but if you wish to leave your name and email address to receive additional information or feedback regarding the survey you are welcome to do so below.

Name	<input type="text"/>
Company	<input type="text"/>
Email Address	<input type="text"/>

Done



[Privacy & Cookie Notice](#)

<b>Report on</b>	Mid Year Progress in relation to the Business Plan 2023- 24
<b>Date of Meeting</b>	3rd November 2023
<b>Reporting Officer</b>	Dr Chris Boomer
<b>Contact Officer</b>	Dr Chris Boomer.

<b>Is this report restricted for confidential business?</b>  If 'Yes', confirm below the exempt information category relied upon	Yes	
	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To inform members of progress being made in achieving the Planning Service Business Plan Objectives for 2023/4
<b>2.0</b>	<b>Background</b>
2.1	Members will recall that the Business Plan contains objectives in relation to average time taken to process a planning application for both local and major applications, the time to complete an enforcement investigation as well as the desire to progress the local development plan.
2.2	The business plan also includes measures aimed at improving the service which include completing the staff review, conducting customer surveys, improving the property certificate service and developing action plans for both mid ulster and working at regional level to improve the delivery of planning services, The detail report gives a brief summary of where we are currently at in achieving these objectives.
<b>3.0</b>	<b>Main Report</b>
3.1	<b>Planning Applications</b> Planning Performance statistics published for 1 <sup>st</sup> April to 30 <sup>th</sup> June (available of the Dfl website) show that Mid Ulster received the third largest number of applications at 296 nearly double of that received by a couple of our neighbouring authorities. We also determined 339 applications, which is more than any other planning authority, of which 99.4% were approvals. This has assisted to address our

	backlog. The number of live applications to be determined had reduced from 909 at the same time last year to 840.
3.2	Of the decisions made seven were major applications representing 20% of all majors in Northern Ireland determined. The average time take to determine these was 73 weeks, demonstrating the amount of work and negotiation involved in reaching these decisions.
3.3	The average time taken to process the remaining 332 applications was 16.1 weeks not achieving our 15 week target but up from the 17.9 weeks achieved last year. The processing time was 6 <sup>th</sup> best and better than the 18.9-week average across all councils.
3.4	We opened 42 enforcement investigations and closed 76 investigations, again assisting to address the backlog left as a result of Covid.
	<b>Local Development Plan</b>
3.5	Members will recall we submitted further information in support of our Local Development Plan Strategy and are still awaiting the Department to call a public examination.
	<b>ICT Transformation</b>
3.6.	Members have supported the work that has gone into installing our computing system and assisted in managing the risks associated with such a big project. The fact the system is fully operational and that we are now addressing our backlog lays testimony to its success, as is the fact that we have received no complaints on its use from our customers.
3.5	The next phase of this ICT transformation will be implemented of a totally on line and paperless property certificate, which will allow solicitors to make payment, submit the application and received the certificate electronically. We have written to the law society and solicitors to advise that the aim is for this to go live the beginning of November. We are currently undertaking our final testing.
3.6	In recognition of the exceptional work of our inhouse cross disciplinary team who installed the system, the participation of local agents in testing the system and our excellent communications with our customers, Mid Ulster are one of the finalists for a national planning award. Karla McKinless (the inhouse project team leader) and the Deputy Chair of the Council will be representing the Council at the National Awards Ceremony in London, just in case we win.

<p>3.7</p> <p>3.8</p> <p>3.9</p>	<p><b>Restructuring of the Planning Department</b></p> <p>On 1<sup>st</sup> November the operational restructuring of our planning Department was implemented which aligns planning officer grades with other services in the Council. It is anticipated that this will make our staffing arrangements more agile with the ability to ensure we have the right staff in the right place with the right training to deliver for our customers. The result of this exercise also means, nearly all of the professional staff will have moved from civil service to council's terms and conditions. Our Human Resource partners deserve special recognition for the care and effort they have put in to deliver this change smoothly. Members will appreciate that any change can cause a climate of fear, mistrust and anxiety amongst staff, however, this has been carefully managed by briefing staff, providing individual clinics to address their concerns and discuss what the changes mean and providing bespoke documentation and employment contracts for individuals across the grade.</p> <p><b>Further Improvements to Customer Services</b></p> <p>The Service Director, Head of Strategic Planning and Head of Local Planning are all involved in regional working parties designed to look at improvements to be brought forward to the planning system. Much of this requires legislative change and members will be aware that consultations are taking place with regards to some of the proposed changes already. The first of those was putting up the planning fees in April which was essential to ensure our service remain sustainable, and discussions are underway with regards to other measures to assist. Unfortunately, the wheels of central government move slowly.</p> <p>In Mid Ulster we are looking to define our agenda for future improvements and as part of that are engaging with our customers to establish their views. The first step is a customer survey of agents which will help us to understand their perspective on how we deliver services. This will help us to know what we are doing well and to focus what future changes will be.</p>
<p><b>4.0</b></p>	<p><b>Other Considerations</b></p>
<p>4.1</p>	<p><b>Financial, Human Resources &amp; Risk Implications</b></p> <p>Financial: N/A</p> <p>Human: N.A</p> <p>Risk Management: N/A</p>
<p>4.2</p>	<p><b>Screening &amp; Impact Assessments</b></p> <p>Equality &amp; Good Relations Implications: N/A</p>

	Rural Needs Implications: N/A
<b>5.0</b>	<b>Recommendation(s)</b>
5.1	<p>The Planning Committee support the Serve Director in sending the Deputy Chair of the Council and the IT project team leader to represent the National Planning Awards</p> <p>The Planning Committee commends the hard work and diligence of our Human Resource partners in delivering the restructuring and further integration of the Planning Department within the Council.</p>
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	<a href="http://www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-june-2023">www.infrastructure-ni.gov.uk/publications/northern-ireland-planning-statistics-april-june-2023</a>

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 3 October 2023 in Council Offices, Circular Road, Dungannon and by virtual means**

**Members Present**

Councillor S McPeake, Chair

Councillors Black (5.10 pm), J Buchanan, Carney, Clarke, Cuthbertson\*, Graham, Kerr, Mallaghan, Martin\*, McConnell, McFlynn\*, D McPeake\*, Robinson, Varsani

**Officers in Attendance**

Dr Boomer, Service Director of Planning (SD: PI)  
 Mr Bowman, Head of Strategic Planning (HSP)\*\*  
 Ms Donnelly, Council Solicitor  
 Ms Doyle, Head of Local Planning (HLP)  
 Mr Marrion, Senior Planning Officer (SPO)  
 Ms McCullagh, Senior Planning Officer (SPO)\*\*  
 Mr McClean, Senior Planning Officer (SPO)  
 Ms McKinless, Senior Planning Officer (SPO)  
 Ms Mhic Iomhair (Planning Officer) (PO)  
 Ms Carson (Trainee Planner) (TP)  
 Mr O'Hagan, Head of ICT  
 Mrs Grogan, Committee & Member Services Officer

**Others in Attendance**

Councillor B McGuigan\*\*\* Councillor Quinn\*\*\*

LA09/2022/0525/F	Mr Tom Stokes*** Mrs Emma McIlwaine*** Mr Damien Broderick*** Mr Jason Taggart*** Mr Conor O'Hara
LA09/2022/1243/F	Mr Jim Maneely Mr Eamonn Loughrey
LA09/2022/1268/F	Mr Thomas Bell Mr Ryan Dougan Dr Phil Hull***
LA09/2023/0371/F	Mr Paul Hamill***
LA09/2023/0478/RM	Mr Russell Finlay
LA09/2022/0398/F	Mr Joe Diamond
LA09/2022/1625/F	Mr Ryan Dougan Mr Richard Agus
LA09/2022/1625/F	Mr Danny Quinn
LA09/2022/1359/O	Mr Chris Cassidy
LA09/2020/0992/O	Mr Chris Cassidy
LA09/2022/1367/F	Mr Martin Kearney

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 5.01 pm

**P101/23 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

**P102/23 Apologies**

Councillor McElvogue.

**P103/23 Declarations of Interest**

The Chair, Councillor S McPeake reminded members of their responsibility with regard to declarations of interest.

None.

**P104/23 Chair's Business**

The Head of Local Planning (HLP) drew members attention to previously circulated addendum and referred to letter from MUDC to Strategic Planning Directorate seeking response to request for further clarification and advised that if any member had any questions they could liaise with the Head of Strategic Planning (HSP) as this as this was his remit.

The HSP provided members with a quick summary of the letter which was sent to the Department on 22 September 2023 and advised that the letter was issued as a reminder which was still awaiting a response.

The HLP referred to letter addressed to SD: Planning from NIEA advising that a decision had been taken from them to temporarily pause the issuing of ammonia planning advice back in May which has now been lifted. This clarification received from NIEA has asked case officers to look at their case lists to see if there is any outstanding responses from NIEA where there are ongoing cases and received a response to date to issue a reconsultation to NIEA to make sure everything is ok and whether there were any further points they wish to raise in response to any of the applications.

*Dr Boomer, Service Director of Planning (SD: PI) entered the meeting at 5.06 pm.*

The SD: PI also referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred/withdrawn from tonight's meeting schedule for an office meeting –

Agenda Item 5.5 – LA09/2022/1359/O - Site for dwelling and domestic garage at approx 105m NW of 25 Brackagh Road, Desertmartin for Seamus Diamond

Agenda Item 5.6 - LA09/2022/1367/F - Two storey dwelling and garage at 10m N of 56 Quarry Road, Knockcloghrim for Gerard Ward



Agenda Item 5.11 – LA09/2023/0622/O – Dwelling and garage (infill site) at 30m NW of 39 Rocktown Road, Bellaghy for Samuel Arrell

Agenda Item 6.2 - LA09/2020/0992/O - Dwelling and domestic garage at Site 150m W of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon for Plunkett Nugent

Agenda Item 6.6 - LA09/2022/0398/F - 2 dwellings within existing Mullinderg Housing Development at approx. 20m NE of 8 Moneyneany for Corramore Construction (withdrawn)

Proposed by Councillor S McPeake  
Seconded by Councillor Kerr and

**Resolved** That the planning applications listed above be deferred/withdrawn for an office meeting / further consideration.

### **Matters for Decision**

#### **P105/23 Planning Applications for Determination**

The Chair drew Members attention to the undernoted planning applications for determination.

**LA09/2022/0525/F 1 Class B3 Industrial Warehouse to operate as metal fabrication/preparation/coating and galvanising plant. Development to new right-hand turn access provision from Sandholes Road and associated car parking, servicing, infrastructure and site works at lands to the rear of E of 20 Sandholes Road, Cookstown for LCC Group Ltd**

Members considered previously circulated report on planning application LA09/2022/0525/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2022/0525/F be subject to conditions as per the officer's report.

**LA09/2022/0667/F Relocation of previously installed flood lighting poles around the racetrack at lands at 48 Cookstown Road, Moneymore for Railway Karting**

Members considered previously circulated report on planning application LA09/2022/0667/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2022/0667/F be approved subject to conditions as per the officer's report.

**LA09/2022/1243/F**      **Extension of existing carriageway service area, including demolition of existing supermarket and PFS and construction of new PFS with shop, deli with hot food provision, seated dining area, drive thru facility, stores, sanitary and staff welfare facilities. Redevelopment of existing forecourt to provide new fuel pumps, canopy, underground storage tanks with public carparking, HGV parking, bunkering facilities and carwash area at 31-32 Glenshane Road, Maghera for James Molloy**

Members considered previously circulated report on planning application LA09/2022/1243/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved**      That planning application LA09/2022/1243/F be approved subject to conditions as per the officer's report.

*Councillor Black entered the meeting at 5.10 pm.*

**LA09/2022/1268/F**      **Fridge Recycling Plant, associated yard area, landscaping, weighbridge, nitrogen dioxide silo, parking, access (insitu) and ancillary site works (amended description) at lands approx. 39m N of 52 Creagh Road, Toomebridge for Enva Northern Ireland Ltd**

Members considered previously circulated report on planning application LA09/2022/1268/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved**      That planning application LA09/2022/1268/F be approved subject to conditions as per the officer's report.

**LA09/2022/1359/O**      **Site for dwelling and domestic garage at approx. 105m NW of 25 Brackagh Road, Desertmartin for Mr Seamus Diamond**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1367/F**      **Two storey dwelling and garage at 10m N of 56 Quarry Road, Knockloughrim for Gerard Ward**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2022/1607/F Upgrade works of existing agricultural access to provide alternative access and egress for commercial vehicles and staff/visitor cars to Agri development hub (LA09/2018/1213/O) at 170m NE of Annaghbeg Road/Tamnamore Road Junction, Tamnamore, Dungannon for Capper Trading Ltd**

Members considered previously circulated report on planning application LA09/2022/1607/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Varsani and

**Resolved** That planning application LA09/2022/1607/F be approved subject to conditions as per the officer's report.

**LA09/2023/0324/F Two storey dwelling with driveway at 15 Oaks Road, Dungannon for Radius Housing Association**

Members considered previously circulated report on planning application LA09/2023/0324/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McConnell and

**Resolved** That planning application LA09/2023/0324/F be approved subject to conditions as per the officer's report.

**LA09/2023/0371/F Aggregate bagging facility to include production building, enclosed loading hopper, enclosed storage bins, storage silos, enclosed blending area, aggregate elevator, electrical switch-room and all associated ancillary works (part retrospective) at FP McCann Ltd, Knockloughrim Quarry, Magherafelt for FP McCann Ltd**

Members considered previously circulated report on planning application LA09/2023/0371/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0371/F be approved subject to conditions as per the officer's report.

**LA09/2023/0478/RM Dwelling and garage at 60m NW of 55 Annaghmore Road, Castledawson for Alvin McMullan**

Members considered previously circulated report on planning application LA09/2023/0478/RM which had a recommendation for approval.

Proposed by Councillor Clarke

Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2023/0478/RM be approved subject to conditions as per the officer's report.

**LA09/2023/0622/O Dwelling and garage (infill site) at 30m NW of 39 Rocktown Road, Bellaghy for Mr Samuel Arrell**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0695/F Portal framed electrical switch room with brick and cladding finishes and a under void for cable access at Moy Park, Dungannon Proteins, 152 Killyman Road, Dungannon for Mr Ian Warnock**

Members considered previously circulated report on planning application LA09/2023/0695/F which had a recommendation for approval.

Proposed by Councillor Varsani  
Seconded by Councillor McConnell and

**Resolved** That planning application LA09/2023/0695/F be approved subject to conditions as per the officer's report.

**LA09/2023/0801/F Retention of domestic garage and store at 25m W of 76 Gortgonis Road, Coalisland for Mr Tony Canning**

Members considered previously circulated report on planning application LA09/2023/0801/F which had a recommendation for approval.

Proposed by Councillor Kerr  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2023/0801/F be approved subject to conditions as per the officer's report.

**LA09/2020/0729/F Site for 5 detached dwellings and garages at 40m W of 16 Annaghmore Road, Coalisland for Mr Conor Tennyson**

Members considered previously circulated report on planning application LA09/2020/0729/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2020/0729/F be approved subject to conditions as per the officer's report.

**LA09/2020/0992/O Dwelling and domestic garage at Site 150m W of 115 Clonavaddy Road, Aghnagar, Cappagh, Dungannon for Plunkett Nugent**

Agreed that application be deferred for one month.

**LA09/2020/1098/F Retention of existing structure to outdoor drinks area at Regans Bar, 19 Hall Street, Maghera for Bernard Regan**

Members considered previously circulated report on planning application LA09/2020/1098/F which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2020/1098/F be approved subject to conditions as per the officer's report.

**LA09/2021/1653/F Extension of facilities, provision of workshop, access to public road to replace existing substandard access, adequate parking, associated site works and landscaping at immediately E of 19 Annagh Road, Lungs, Clogher for Malcolm Keys**

Members considered previously circulated report on planning application LA09/2021/1653/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor Graham and

**Resolved** That planning application LA09/2021/1653/F be approved subject to conditions as per the officer's report.

**LA09/2021/1772/O Dwelling, domestic garage and associated works at lands approx. 30m S of 29 Tullyglush Road, Ballygawley for Mr Liam Farrell**

Members considered previously circulated report on planning application LA09/2021/1772/O which had a recommendation for approval.

Proposed by Councillor McConnell  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/1772/O be approved subject to conditions as per the officer's report.

**LA09/2022/0398/F      2 dwellings within existing Mullinderg Housing  
Development at approx. 20m NE of 8 Moneyneany for  
Corramore Construction**

Agreed that application be withdrawn earlier in the meeting.

**LA09/2022/1625/F      Alteration to approved egress point (LA09/2018/0777/F)  
to include for access to existing factory at 116 Deerpark  
Road, Toomebridge for Neil Savage**

Members considered previously circulated report on planning application LA09/2022/1625/F which had a recommendation for approval.

The Chair advised the committee that requests to speak on the application had been received and invited Mr Quinn to address the committee in the first instance.

Mr Quinn thanked the committee for allowing him to address the meeting this evening. He advised that the school community appreciated the opportunity to highlight their ongoing concerns relating to the implementation to access the existing SDC factory adjacent to the school as outlined within the deferred consultation report on 2 March 2023. The Board of Governors of the school request that due consideration is given to the school's unique situation and the negative impact it will have on environment for pupils, parents, grandparents and the wider community who use the Deerpark Road frequently. Recognition is given to SDC wanting to maximise their productivity and therefore the movement of HGV's on and off the site as rapidly as possible. It is regrettable that the school did not object to the planning application in 2018, but this was done in good faith which has now enabled SDC to adjust the scope of their work. Other concerns have been raised continually and are documented contrary to MRA Transport Planning Report dated 27 June 2023. The school has been explicit in the evidence in the SW survey dated 29 March 2023, currently the majority of the vehicles pass Anahorish Primary School. While MRA claim the new A6 has enabled a reduction in traffic passing the school, this is neither enforceable or realistic as HGV traffic is unchanged. The school community has already cited the need for joined up thinking and collaboration in the interest for all including the footpath outside the school that has been approved by DfI and future involvement in the safer route to schools and programmes involving walking and cycling. Mr Quinn said as Principal of the school, he had a duty of care to the children, parents, grandparents, staff and all other personnel who access his school, the reason for his presence at this meeting here tonight was primarily safety. On behalf of the pupils at Anahorish Primary School he implored the planning committee to make a site visit during peak times of the school day to ensure a huge picture of the reality of this application so any decision reached can be done so on first-hand experience and local knowledge. Looking forward the school community wishes to work collaboratively with SDC, their neighbours to ensure the safety and well-being of the children, their families and the wider community.

The Chair invited Mr Dougan and Mr Agus to address the committee.

Mr Dougan advised that he welcomed the recommendation summary by the case officer and was keen not to duplicate the summary what was already alluded to but had a few salient points to highlight. This application was presented to committee with a recommendation to approve in March this year, the application was deferred

for an office meeting after which the applicant had volunteered proposals to elevate concerns raised by the adjacent school regarding the perceived vehicle movements. Notably the amended proposals and incorporated change to create a 'left in, right out' only vehicle movement which represented betterment for the school. Dfl responded to the initial application submission with no objections on the 14 February and upon receipt of amended proposals, were reconsulted on two further occasions and responded to both on 9 May and 5 September 2023 with no objection. Mr Dougan concluded by saying that the key consultee Dfl Roads having robustly assessed the amended proposals on behalf of the school, remain with no objections to the proposal and would respectfully request that members support the recommendation to approve the application this evening.

Mr Agus from MRA Partnership advised that he had been assisting Mr Dougan on the application, specifically advising and assisting on road safety matters. Mr Agus advised that this proposal was not generating any more traffic at SDC, the application is responding to the changes in the public road. To access the current access from the A6, HGV's currently have to drive onto oncoming traffic and indeed such a difficult manoeuvre, that many registered HGV drivers continue to approach from the Hillhead Road as before, passing the school and this new access addressed this issue enabling more vehicles to avoid passing the school. To address the concerns of the school, this has been reorientated to left in, right out, a line for A6 traffic and further reduce traffic passing the school and all the traffic that doesn't currently pass the school has been done so because of the A6 and this would reduce it further, but cannot remove it completely as SDC has plants on both sides of the school. Dfl has given this application considerable attention and scrutiny prior to offering no objection.

Dr Boomer, Service Director of Planning (SD: PI) said that obviously that this was an alteration to improve an egress point and advised that there was an existing access point here. In terms of movement there would be nothing to stop traffic coming out of that access point and whilst he appreciated the site to some degree, is divided by buildings, it still could be re-orientated to change its traffic movement without necessarily needing a planning permission. The SD: PI said that we were not talking about adding a new risk but changing an existing access. He appreciated that road safety issues when next to a school could be quite emotive and it was reasonable for the Principal to try to do everything he could in order to ensure that it was as safe as possible. He cautioned members on attending a site visit to determine whether the access was safe as it is wisest to follow the advice which we are being given from the roads authority who consider that it is safe access. For the committee to disagree something else without clear evidence, could result in a planning appeal, which the permission may consider as unnecessary because we did not actually have evidence that it was dangerous or worsening the situation. Whilst he appreciated the concerns of the parents, discussions had taken place at length to establish whether it was safe. The committee should also note that Roads Service is telling Council the access is safe, the applicant is agreeable to putting signage to encourage traffic leaving the site to travel away from the school. The SD: PI's advice to members would be that whilst he appreciated the very emotive issue which has been given, we do need to have full regard to the technical expertise in which we are being provided with by the road engineers.

The Chair referred to comment regarding "right turn out, left turn in" and enquired if this was going to be signposted.

Mr Dougan agreed that this would be the case and would be happy as it was his understanding that there has been a suggested condition applied to the permission.

Councillor McFlynn enquired if it was known what times Roads Service officials visited the site and whether they were there during peak times of the school day.

The SD: PI stated that this information was not known but felt that as this was a factory why would SDC be moving vehicles when officials arrived. Roads Service has assumed the movements of vehicles during these peak times and they were saying that in their opinion everything was up to standard.

Councillor McFlynn enquired from Mr Quinn (Principal) where parents park when they are dropping off and lifting children, do they lift the children at the carpark inside the school or park on the roadside.

Mr Quinn advised that a number come to the carpark and some out on the road as the carpark inside the school is not large enough to deal with the capacity but were currently looking to address this issue.

The SD: PI said that it was his understanding that Mr Quinn was looking to address the parking issue with an application for layby parking facilities.

Councillor Graham enquired what more Mr Quinn wanted SDC to do to make the school happy.

Mr Quinn said that the school community would like SDC to use their existing entrance going in and had liaised with SDC regarding the new adjustments they made. He referred to site splays up at the school and said that he wished to have these moved further from the school and had asked many times for this to be done but it has never happened. He felt that things were hard to control when the signs were not always followed.

Councillor Mallaghan said that given the fact that Roads Service had no concerns, the committee was left in a difficult position as this was two neighbours who were in dispute over this situation, but as a planning authority we would have to follow the advice from the statutory authority on this and proposed to proceed with the recommendation.

Proposed by Councillor Mallaghan  
Seconded by Councillor Carney and

**Resolved** That planning application LA09/2022/1625/F be approved subject to conditions as per the officer's report.

### **P106/23 Receive Report on Dfl Notice of Opinion – Lough Neagh**

The Head of Strategic Planning (HSP) presented previously circulated report to advise members of further correspondence received from Dfl on the 29 August 2023 relating to its recent Notice of Opinion to approve an application which seeks the non-compliance with conditions number 07 and condition number 12 of planning approval LA03/2017/0310/F.



Dfl had previously invited requests for an opportunity to appear before and be heard by the Planning Appeals Commission, or a person appointed by the Department for the purpose of a hearing, in writing, within 8 weeks from the date of service of the Notice.

The HSP referred to item on addendum in relating to correspondence received today advising that Friends of the Earth wish to participate in a PAC hearing regarding this development (LA03/2021/0940/F).

The HSP went through the points that Planning has raised with Dfl.

The Chair enquired if members had an opportunity to read in its entirety the Friends of the Earth correspondence.

The Chair referred to Item 7 where the group has indicated that they have already received a formal request for a hearing and felt if there was to be any change in that there may be legal implications.

The SD: PI advised that this was an interesting email which arrived this morning which he did not see until 3.30 pm. Obviously, Friends of the Earth became aware that Councillors had raised a whole series of issues and asking for reassurance at the last meeting and as he was not an ecologist, he could not provide that assurance. What Friends of the Earth are clearly trying to do by sending an email this morning was to get a chance to speak at the public enquiry on the basis of this Council asking for one and clearly if it was felt that we didn't have satisfactory answers to our questions, then we can stick with that position. The SD: PI felt that it was interesting that the Department had declined an invitation to attend the meeting which in his opinion was not good practice in terms of engagement or appropriate respect towards members of the Council who were clearly looking to engage in dialogue in a meaningful way. In referring to the end of the letter felt it wasn't as simple as Friends of the Earth saying that by extending it the Department will be doing something illegal, they sent us the consultation, they sent us a date for the consultation, we responded and because of the nature of our response, the Department extended the consultation period. The SD: PI said that he would be somewhat shocked that any court concluded that it was time bound because Council had written in there couldn't be further discussion to avoid a public enquiry. Friends of the Earth go through a lot more detail on what he would have answers to and clearly looked at the letter Council had sent and clearly picked up on the things in which members were questioning i.e. what's the impact of the huge barges, what's the impact of disturbance if more is taken out, impact on bird life, ornithology. He said that it didn't take a genius at this moment in time to realise Lough Neagh was very emotive in terms of the green algae and Friends of the Earth are raising other issues regarding the Lough as a whole, governance of the Lough, whether there were ever proper ecology baselines, contamination, bacteria, was habitat properly met, issues like that where lawyers could argue about and try to attempt to give members a definite answer on that, a lot of issues has been raised which they wish to raise themselves at the public enquiry. The SD: PI felt that it was useful to bring to members attention but equally felt that some of the local industries in the area like sand extraction and concrete operators also get their opportunity to speak on the matter.

The Chair advised that a request from Lough Neagh Sand Traders had been received and invited the representatives to address the committee.

Mr Andrew Scurfield advised that he was an agent for Lough Neagh Sand Traders and his submission seeks to provide clarification as appropriate to the points raised by the Council to the Department for Infrastructure (“DFI”) in its letter of 10th August 2023. He hoped that the Planning Committee will consider these helpful and remove any concerns they had expressed at the previous meeting on 1st August 2023. He advised that he has been the agent for the Applicant since the grant of the original planning permission (“the OPP”) which permits the extraction of sand from Lough Neagh until 2032 and also for this present Section 54 Application (“the S54”) before the DFI, to seek modification of 2 (only) conditions pertaining to the ability to replace barges with a modern equivalent and to allow the standard working day for the barges to be the same throughout the whole year. It is important to set out at the outset that the present S54 before the Planning Committee does not seek to amend in any way the extant OPP in relation to:

- the actual act of extraction,
- the volume of sand permitted per annum,
- the total amount of sand permitted to be extracted over the life of the planning permission or,
- the location from which it is extracted or the life of the planning permission itself.

Mr Scurfield stated that these remain the same and governed by the main planning permission and was tested at public enquiry and was assessed not to have a reason to not grant planning permission. This is not a fresh planning application looking to revisit all that, only seeking an amendment on 2 conditions:

1. To provide flexibility to allow barges to be changed as a lot of the fleet has been aging in the terms of Lough Neagh and in order to replace those barges the condition as outlined would only allow you to provide like for like. Some of these barges is 50 years old and just not possible so basically the revised condition allows flexibility but end up with a newer vessel with lesser emissions and lesser noise emissions;
2. DFI are not proposing that unrestricted nighttime working and wished to make that clear and for most of the year operations are provided/permitted to work from 6 am to 6 pm. There was insufficient information in the original statement and environmental assessment to allow hours of darkness working. The revised NIEA and revised appropriate assessment that was tested by NIEA and Shared Environment Services (SES) determined that there was sufficient information to allow operations to occur within what would be normal operating hours throughout the entirety of the year so that November, December, January and February would be added to that list. In order for them to reach that finding there would have to be no adverse effect on the integrity of the European side and could not reach that conclusion and recommendation if that were not the case.

Mr Scurfield advised that one of the other matters that has been raised and touched upon was the enforceability of how do we know where the barges are during the night, he said that GPS trackers are attached to each and every vessel, they live report every minute of their movement, if there is extraction outside the area, DFI receive an email directly from the software operator so they are made aware immediately. On top of this INST provide fortnightly summary reports and monthly tonnages so everyone can be sure that everything is being operated accordingly. He

suggested that this was the most regulated form of extraction in the island of Ireland. The Council's Chief Executive provided a no objection response to this application subject to all the appropriate assessments and the natural environment being carried out, he would agree this is the case as NIEA and SES both found no reason to refuse the application.

Mr Scurfield asked members to support DfI's recommendation to allow this to pass without a need for a public hearing. He advised that he was not aware of Friends of the Earth's response as it came at the very last minute and was a little blindsided by that but would say that most of the matters from what he could understand are outside of the planning application and the parameters of what was being looked at and said that as everyone accepts the algae is a substantive issue and the anthropogenic matters which were being referenced was all outside of the bounds of the planning application put forward and simply limited to hours of operation and changes of barges.

The SD: PI said that it got quite complex when there is a change of condition, legally if it went to public enquiry, planning appeals commission does have the opportunity to reassess the application afresh. There has been notes where someone challenged a planning appeal on a condition on a notion that it's unreasonable and the PAC concluded that if it was unreasonable that it cannot be imposed and no longer the means to grant that planning permission. He said that theoretically shocked if PAC took that view in this instance but would equally wrong of him to advise members that it was absolutely limited to the conditions. The SD: PI referred to what was in front of members tonight despite that wider legal interpretation, is that can bigger boats be put on the Lough and hours of operation at different times and not the whole effect. He said that it was important to ask why this was felt necessary in the first place and was obviously imposed by the Planning Appeals Commission when dealing with the public enquiry with agreement with the parties.

In response to SD: PI, Mr Scurfield advised that with the initial submission and predominantly the bird analysis this was undertaken in exclusively daylight hours for the original environmental statement, there was a gap given that in the winter months there is usually 1½ to 2 hours which were normal operating hours when the barges would have been returning to the quays. The commissioner felt that there was a gap in that analysis and he recommended the restricted hours in daylight working in November, December, January and February which was the normal operating hours in which Lough Neagh Sand Traders accepted and operated those conditions with a view to the fact they had to go away and plug that information gap in order that either NIEA or SES could arrive at a position where they could say that there would be no harm done to the designated site so this was why it was imposed in the first instance. This has been revisited all for ostensibly commercial reasons because the normal operating hours of a business throughout the rest of the year is 6am to 6pm. In response to comment relating to the barges, Mr Scurfield advised that the Department was alerted before the issue of the planning consent and unfortunately to ask someone to replace a vessel with a like for like when a vessel is 50 years old was going to be unworkable, but they stuck to their guns and this is why this is requested as well.

The SD: PI said that his staff would be interested in the issue of enforcement and enquired could it not be the case that someone could switch of a tracker and also for third party sand traders who do not operate with trackers but still extract. The SD: PI

felt that the representatives were asking the committee to trust them and dispute what the Department alluded to in their correspondence, his experience is that they intend to push all the enforcement matters to this Council and when we contact them, they tend not to respond to us. He enquired how do you stop barges going out over night and extracting in areas where they shouldn't be permitted.

*Councillor McConnell left meeting at 8.06 pm and returned at 8.08 pm.*

Mr Scurfield advised that there are trackers built into the system in a very sophisticated way and if these were tampered with or the device goes down, it would alert Seatrack or the relevant sea company responsible and also the Department that a particular tracker on one of the vessels has gone down which is instantaneous. Mr Scurfield stated that protocol within Lough Neagh Sand Traders which has the overarching Section 76 above it, basically says that the operator will stand down the vessel until the tracker has been repaired and operational again. Section 76 relates to a legal agreement which brings in the 5 operators and if one of those operators is in breach of the operations, then consideration is that all the operators are in breach and therefore the potential for infighting amongst the parties where one party could be potentially be suing the other for loss of earnings and was beyond the pilots of the barges to disarm a tracker unit without alerting someone. In relation to pirates of the Lough, Mr Scurfield advised that these were third party operators and could not speak on that matter, but most definitely do not have trackers and could not benefit from planning permission either as the planning permission was specific to routes which enable the sand only to be landed at the 8 controlled quays which was deliberately structured by the Department to ensure that any third party operators could not wilfully operate.

The SD: PI said as the committee know it's not against the law to do something without planning permission, but against the law to break an enforcement notice and whilst there may be activities which do not benefit from planning permission, it doesn't necessarily mean that the enforcement notice has been breached as this is fairly clear in regards to the areas and asked what level of governance exists to deal with that. As this area is under private ownership of Lord Shaftsbury Estates, Lough Neagh Sand Traders were extracting under licence and enquired what governance exists to deal with extraction by other parties If there is other extraction activity taking place on the Lough under private control why is there not proper governance to sort this out and why are such matters left to the planning authority. The SD: PI stated that if he was a licenced trader, he would like to see an injunction served when other people were operating without a licence.

Mr Scurfield said that he wasn't entirely sure that this was pertinent to this application but agreed that the bed of the Lough was in private ownership but would dispute whether the Lough is not open to all and would understand that private matters has been taken in little or no success in similar vein to other enforcement action.

Councillor Kerr wished to share his disappointment that the Department declined the invitation and felt that they must be living under a rock because Lough Neagh is very prominent in the local and national media at present and was aware that Al Jazeera was visiting Lough Neagh this week. The member was also aware of Chinese State Media sending a team over as it has a huge significant interest, not only to Ireland but to whole of the world. The member said that his opinion would be to strongly

oppose to the amendments to the relaxation of the applications and when reading through the letter there seems to be hugely contradictory statements coming from NIEA regarding survey work. The member said that he was aware that himself, Sinn Fein and SDLP had taken a motion last week to Council to try and address what was happening on the Lough but due to contradictory work on the survey regarding the environmental impact assessment, he would be very reluctant and had huge reservations regarding the relaxation and amendments to the conditions.

Councillor Varsani said that we are all cognisant of the fact that sand is such an important aspect of industry, an important ingredient and there was a need to separate issues and we will endeavour to do our best on that. The member reminded everyone that issues had been raised on these particular variations on planning before all the media had got interested in the Lough and felt that it was important that we are all cognisant and not mixing up our passion for the Lough in which we all have and what our remit is in terms of what we are being asked to do in considering these variations. The member stated that reassurance was given that everything was very high tech and all kinds of monitoring was being carried out and yet there has apparently been approximately 46 planning breaches within the space of 2 years. The member referred to letter from Council dated 15 September 2023 to the Department advising that the Council is off the view that the Department has been unwilling to work with Council in proactively investigating alleged breaches in relation to extraction from the Lough demonstrated by the fact that the Council is currently investigating such alleged breaches itself. The member referred to the letter from Friends of the Earth which arrived quite late but had touched on an issue which Council had raised in their initial questioning in that we don't think there has been robust research carried out on the impact of on birds and wildlife as does not still see enough evidence of that. The member said that it was her understanding that there would be a condition on bats and otters in relation to this as well, but did not see any information particularly to nocturnal species, but if there was some information she would be happy to look at that. In conclusion, Councillor Varsani felt that there were still a lot of unknowns here and although happy to read over the knowns, would be very interested in the unknowns at this point.

Councillor Black concurred with Councillor Varsani's comments and said there was a need to separate the issues which were in front of members here and as a committee we did write down the queries and concerns which we had which were fed back to the Department, who had an opportunity to address them in which they had. The member did feel however that the Department's response has gone some way to deal with the concerns and addressed quite a number of them. He referred to SD: PI previous comments and advised that there were two points in front of members tonight to consider and if we look at them in turn. Firstly, the issue in relation to the barges and what he was picking up from what he had read and presentation given tonight was that being asked to replace barges with like for like barges which is 50 years old, this is not practical and impossible to actually do and in addition to the new barges being replaced, this could actually be more environmentally friendly which could be an improvement on what the current position is. The member felt that there was a need for this to be noted and something that the committee needed to be paying attention to as in the long run it could be something that could improve the situation. Secondly, in regard to the hours of trading, there was some mention of trading during the night and felt that this was not something that was before us extending the trading hours from 6am to 6pm, it was his understanding that this was through the winter months because of darkness

setting in to provide more leeway to do that because of restriction in daylight during that time of year. However, whilst there is an extension of time that this can be done, there is an overall restriction that remains in place with the overall regard to the amount of sand that can actually be extracted from the Lough during any year. Whilst there are concerns regarding the intensification of the process here, the overall restriction remains unchanged and there can't actually be any more sand pulled out from the Lough even with the extension of time, should that be granted which also has to be considered as a committee with any decision that is made. It was his understanding that these extended hours has been considered by NIEA and SES and they have not presented any concern with regard to this direction of travel and was cognisant of the comments made regarding a previous application that was before us tonight that we need to bear heed to the specialist bodies with Road Service being the example on that occasion. He said that there are other bodies which are before us on this occasion and as a committee should we being going against the advice in which we were receiving from the external consultees which we also need to bear in mind. In regard to enforcement and whilst there will be no set of circumstances that are infallible, he felt what was said tonight goes some way in trying to address the concerns and in some way making enforcement easier should there be breaches and if trackers are not in play, it actually demonstrates the breaches of a condition and therefore easier to take enforcement action should it be required. The member felt that Lough Neagh Sand Traders could only do what was actually practically possible for them and were trying to put something in front of committee to make it easier to monitor the situation. In conclusion, the member felt that these were some points the committee needed to bear in mind in regards to what the committee decides here tonight.

Councillor Clarke advised that concerns were raised at the last meeting with a lot of things emerging into the public domain in the meantime and felt that this should not be used as a pressure on Council to make a decision in certain ways because we should proceed on what we are concerned about, and our concern was about the removal of two conditions. The member felt that nothing has been added here tonight to convince him otherwise and bodies that have been involved and have responsibility for the Lough have probably been seen to be not that efficient at doing what they are supposed to be doing and felt that there was a need to be careful where Council take their direction and information from. The member referred to this current stage and the debate that has taken place, he had noted that the application to remove the conditions had not been made, we would not be in the position we are in now and only reacting to an application, but this was no justification to let this go as Council has set out on a course which has to be continued with. The member said at the time Council did not know that this would open things up and it was his understanding that this has be progressed on from what was proposed to do initially.

Councillor McFlynn advised that a lot of questions, queries and discussion has taken place since the summertime when the blue algae appeared on Lough Neagh and whilst listening carefully to all the comments from the committee here tonight, her major issue is that the planning application originally approved was done so with these conditions on it to protect the Lough. The member said that industry could still continue on but she could not support the conditions be removed at this stage and a lot more discussion needed to take place on what was actually happening on our Lough and the effects all this industry is having. The member said that members and officers here tonight had spoken openheartedly on the issue and her opinion

would be that there was a whole lot more discussion needed before those conditions were taken off.

The SD: PI said that it was really important for members to remind themselves on what the decision that was being made, whether as a Council we will call for hearing looking into issues raised by the application. He said that we are not the authority which will be deciding on the outcome of the application as this was the remit of the Department. The SD: PI referred to similar matter which related to Upperlands and our experience was that the Department evaded our questions and felt that this will be the same scenario. The Department will request we demonstrate the harm caused by the application. The SD: PI stated that extraction on the Lough will carry on regardless of the proposed alterations the conditions. His main concern was that more intensive extraction will impact on sediment in lake which could lead on to further impacts. The traders had indicated the permission was time limited, which meant there would be opportunity for further research on impacts before a further permission would be granted. The SD: PI felt that there was a need for further research and a more joined up government around the lake to ensure that proper dialogue takes place with DfI, DAERA and Shaftbury's Estate etc. as this was not just about the lake but about future of the basin. The SD: PI concluded by saying that this was not a healthy time in government as currently there was a culture of continuously passing the buck and from a planning professional viewpoint this was not helping to resolve issues.

Councillor Varsani said it may be useful to re-read a little paragraph from Council's letter from 10<sup>th</sup> August when we talk about evidence, it was also the absence of evidence that we need to concern ourselves with especially in regard to one of the most important habitats in Europe, if not the world – *"In requesting a Hearing the Council reserve the right to add to its concerns and to bring in expertise to question the adequacy of the environmental appraisal and appropriate assessment of this change to the conditions and it should be born in mind that because the precautionary principal applies the burden will rest with the Department to demonstrate that no harm will occur"*. The member felt that the Department may have given us an opinion but they have not given us the evidence that no harm will occur and advised that an opinion is not the same as research and felt that the committee needed to bear this in mind also.

The Chair advised that members had heard a good lengthy discussion and also presentation including questions and answers from representatives from Lough Neagh Sand Traders. He wished to say that it was unacceptable that the Department has not come forthwith to answer some of the very pertinent questions and felt that as government body to fail in its duty to do that is totally wrong and may have went some way to what Councillor Varsani asked for to alleviate some of the precautionary issues.

Proposed by Councillor Clarke  
Seconded by Councillor Varsani and

**Resolved** That having considered the correspondence from DfI, that a hearing by the PAC is still being sought.

## **P107/23      Receive Report on Net Zero**

The Head of Strategic Planning (HSP) presented previously circulated report to agree a Council response to DAERA's current consultation on the related Carbon Budgets and the CCC advice report (appendix). The consultation closes on the 11 October 2023.

The Chair agreed that this was a very high tech, detailed, scientific document and commended the HSP on the delivery of his presentation and felt that it has been captured well and in terms on the needs to be an economic feasibility and considerations as well as protecting the environment and matters relating to agriculture.

Councillor Varsani enquired if the reduction livestock was almost a third or 18%.

The HSP advised that Item 3.2 specifically states that "*A reduction in Northern Irish livestock numbers of almost a third and the widespread adoption of low-carbon farming practices*" which relates to this particular point. He stated that one reflects the balance pathway and the other is the stretch ambition pathway which was an even more ambitious target which explains the reference to 18% and almost a third.

Proposed by Councillor Kerr  
Seconded by Councillor Mallaghan and

**Resolved** To agree the suggested response to this consultation as set out in the report and that the Service Director is delegated to finalise the response.

## **Matters for Information**

### **P108/23      Minutes of Planning Committee held on 5 September 2023**

Members noted minutes of Planning Committee held on 5 September 2023.

*Live broadcast ended at 6.52 pm.*

## **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Kerr  
Seconded by Varsani and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P109/23 to P113/23.

## **Matters for Decision**

P109/23      Receive Report on Advanced Notice of Listing – Pomeroy  
P110/23      Receive Enforcement Report



**Matters for Information**

- P111/23 Confidential Minutes of Planning Committee held on 5 September 2023
- P112/23 Enforcement Cases Opened
- P113/23 Enforcement Cases Closed

**P101/23 Duration of Meeting**

The meeting was called for 5 pm and concluded at 7.10 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.
- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any

proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.

## **ADDENDUM TO PLANNING COMMITTEE AGENDA**

**FOR PLANNING COMMITTEE MEETING ON: 3 October 2023**

**Additional information has been received on the following items since the agenda was issued.**

**Chairs Business –**

**Letter to DFI Re Draft Development Plan**

**Letter to Head of Planning from DAERA**

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.3	Natural Environment Division replied on 26-09-23 and has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns.	To be noted by members
5.4	A further condition is included to address the waste codes allowed	To be noted by Members
7	Correspondence from Friends of the Earth	To be noted by Members