



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

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

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

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

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

### **Description of Proposal**

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

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

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

Reason: In the interests of residential amenity.

### **Deferred Consideration:**

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

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

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

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

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

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

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

**Refusal Reasons:**

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

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

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



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## Deferred Consideration Report

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

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

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

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

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

### **Description of Proposal**

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

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

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

Reason: In the interests of residential amenity.

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

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

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

### **Refusal Reasons:**

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

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

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





**Development Management Officer Report  
 Committee Application**

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



**Case Officer Report**

**Site Location Plan: 01**



**Representations:**

Letters of Support	None Received
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

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

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

**Description of proposal**

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

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

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

Reason: In the interests of residential amenity.

#### **Characteristics of site and area**

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

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

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

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

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

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

##### **Planning Act 2011**

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

##### **Area Plan**

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

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

**Relevant Planning Policy**

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

**Relevant Planning History**

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

Condition 12 of this permission reads;

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

Reason: In the interests of residential amenity.

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

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

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

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

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

**3rd Party Objections**

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

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

**Consideration**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That planning permission is refused for the following reasons;

**Reasons for Refusal:**

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

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

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

### ANNEX

<b>Date Valid</b>	8th February 2019
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<b>Date First Advertised</b>	21st February 2019
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<b>Date Last Advertised</b>	
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**Details of Neighbour Notification (all addresses)**

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

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



outbuildings.

### **Description of Proposal**

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### Condition 1

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

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

##### Condition 2

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

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

##### Condition 3

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

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

##### Condition 4

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

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

##### Condition 5

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

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

Condition 6

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

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

Condition 7

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

Reason: To protect breeding birds.

Condition 8

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

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

Condition 9

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

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

Condition 10

The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No. 01 rev 2 uploaded on public access on 26th April 2023 any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Signature(s):**Karla McKinless

**Date:** 18 July 2023



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.03
<b>Application ID:</b> LA09/2021/1083/F	<b>Target Date:</b> 17 September 2021
<b>Proposal:</b> Proposed two storey with lower ground floor replacement dwelling and associated courtyard domestic garages and outbuildings	<b>Location:</b> 9 Mackenny Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Wilma Brownlee 9 Mackenny Road Cookstown BT80 9RR	<b>Agent Name and Address:</b> Studiofortyfour - Town And Country Planning 44A New Street Enniskillen BT74 6AH
<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>
	Shared Environmental Services	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	NIEA	Substantive: YResponseType: FR
	NIEA	Substantive: TBC
	NIEA	Substantive: TBCResponseType: PR

**Representations:**

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

and signatures

### **Summary of Issues**

There were no representations received.

The proposal is considered to be contrary to some of the policies contained within PPS 21 which will be discussed in detail later in the report.

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

The red line of the site includes a roadside portion of lands which includes No.9 Mackenny Road. Within the red line is the dwelling to be replaced, a number of existing outbuildings. To the south of the site is lands outlined in blue indicating ownership. The dwelling sits at a level similar to the roadside, however it sits at higher ground when travelling along the Mackenny Road in a easterly direction. Ballinderry river runs to the west of the site. The lands are well landscaped, with a number of existing trees and mature vegetation throughout the site. The surrounding area is rural in nature, scattered with single dwellings and their associated outbuildings.

### **Description of Proposal**

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

### **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: 26, 29, 30 and 31 Mackenny Road. At the time of writing, no third party representations have been received.

##### Planning History

There is no planning history in relation to the dwelling to be replaced however the following applications were approved under the dwelling on a farm policy.

LA09/2015/0292/O - Proposed Farm Dwelling and Garage - 20M SW Of 9 Mackenny Road Cookstown - PERMISSION GRANTED

LA09/2019/0522/F - Proposed dwelling and garage block - 20M South West Of 9 Mackenny Road Cookstown - PERMISSION GRANTED

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

- o Cookstown Area Plan 2010

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

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

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

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

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

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

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



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

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

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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

**Case Officer:** Sarah Duggan

**Date:** 17 October 2022

<b>ANNEX</b>	
<b>Date Valid</b>	23 July 2021
<b>Date First Advertised</b>	3 August 2021
<b>Date Last Advertised</b>	3 August 2021
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  30 Mackenny Road, Cookstown, BT80 9NF  The Owner / Occupier  29 Mackenny Road, Cookstown, BT80 9NF  The Owner / Occupier  31 Mackenny Road, Cookstown, BT80 9NF  The Owner / Occupier  26 Mackenny Road, Cookstown, BT80 9NF</p>	
<b>Date of Last Neighbour Notification</b>	3 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>	
<p>Shared Environmental Services-Substantive: YResponseType: FR  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  Historic Environment Division (HED)-Substantive: YResponseType: FR  NIEA-Substantive: YResponseType: FR  NIEA-Substantive: TBC  NIEA-Substantive: TBCResponseType: PR</p>	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

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

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

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

#### Other Issues:

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

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

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

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

#### **Conditions/Reasons for Refusal:**

##### **Approval Conditions**

###### Condition 1

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

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

###### Condition 2

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

Reason: To protect adjacent residential amenity

###### Condition 3

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

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.



**Signature(s):**Karla McKinless

**Date:** 6 July 2023

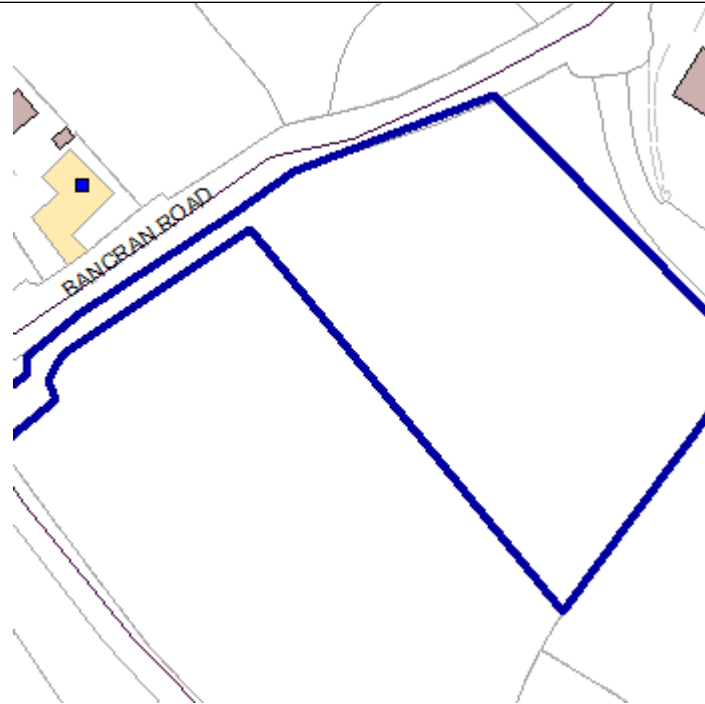


## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

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

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

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

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

### **Description of Proposal**

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

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

#### **Policy Consideration**

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

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

Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable development in the countryside.

Planning Policy Statement 3 – Access, Movement and Parking

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the

Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside.

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

The Mid Ulster District Council Local Development Plan 2030; Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representation closed on 18<sup>th</sup> December 2020. On 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.

#### Representations

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

#### Planning History

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

#### Magherafelt Area Plan, 2015

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

The Strategic Planning Policy Statement for Northern Ireland- advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS 21): Sustainable Development in the Countryside – PPS21. According to CTY 12 of PPS21 planning permission will be granted for development on an active and established agricultural holding where it is demonstrated that:

- a) it is necessary for the efficient use of the agricultural holding or forestry enterprise;
- b) in terms of character and scale it is appropriate to its location
- c) it visually integrates into the local landscape and additional landscaping is provided as necessary;
- d) it will not have an adverse impact on the natural or built heritage;
- e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and

pollution.

It is necessary to first consider if the farm business is both active and established for more than the required period of 6 years. DAERA, have confirmed that the farm business ID stated on the P1C form has been established for more than six years and that it has claimed payments in each of the last 6 years. Therefore I am satisfied that the farm business is both active and established.

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

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

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

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

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

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

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

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

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

*e) it will not result in detrimental impact on the amenity of residential dwellings outside the holding or enterprise including potential problems arising from noise, smell and pollution*

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

In cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- there are no suitable existing buildings on the holding or enterprise that can be used;

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

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

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

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

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

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

Finally this proposal should be considered against the criteria set out in CTY 14 of PPS21 whereby it states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to or further erode the rural character of an area. It is my consideration that this proposal would not cause a detrimental change to the character of the surrounding area or erode the rural character

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

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

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

### Objections

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

The objector raised a number of points as follows

- 1) *'This seems quite a significant proposal and with such a sizeable increase to any agricultural holding in this area we would enquire if an environmental impact assessment is required'* – The application was considered against The Planning (Environmental Impact Assessment) Regulations 2017, however as the proposal is not considered 'intensive' agriculture it does not require EIA Screening or considered EIA schedule 2 development. The environmental impacts of the proposal have been considered and it is not considered there will be detrimental impacts to the surrounding environment.
  
- 2) *'There also seems to be a sizeable new farm yard shown on the site plan but the description makes no reference to agricultural lands being changed into a farm yard'* – the description was reviewed and was considered to be adequate as the proposal is for storage purposes only, and will not be used for animal housing.
  
- 3) *'As the proposal changes a sizeable area from green lands to hard surface we would enquire if a drainage assessment is required for the proposal.'* – according to the Planning Policy Statement 15 Planning and Flood Risk, Policy FLD 3, a drainage assessment is only required if the proposal exceeds the threshold as follows: change of use involving new buildings and or hard surfacing exceeding 1000m<sup>2</sup> in area. The proposal does not exceed this area (area measured as



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

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

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

**Signature(s):** Siobhan Farrell

**Date:** 19 December 2022

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

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

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

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

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

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

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

### **Description of Proposal**

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

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

### **Deferred Consideration:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Policy AMP 2 - Access to Public Roads states that planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

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

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

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



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

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

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

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

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

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

#### **Conditions/Reasons for Refusal:**

##### **Approval Conditions**

###### Condition 1

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

Reason: This is a retrospective application.

###### Condition 2

The use of the buildings hereby approved shall be used only for Use Class B1: Business, in connection with the applicant's farm diversification project and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order.

**Condition 3**

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

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

**Signature(s):**Karla McKinless

**Date:** 6 July 2023



## Development Management Officer Report Committee Application

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

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

**Representations:**

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

**Summary of Issues**

Issues raised

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

- o Traffic turning into the proposed entrance;

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

- o Estimated vehicle usage;

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

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

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

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

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

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

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

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

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

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

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

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

This is detailed in the report below.

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

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

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

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

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

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

### **Description of Proposal**

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

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

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

#### **Policy Consideration**

Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing

planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

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

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

PPS 3 - Access, Movement and Parking;

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

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

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

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

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

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

PPS 3 - Access, Movement and Parking

Policy AMP 2 - Access to Public Roads

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

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

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

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

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

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

#### Consideration

Therefore on balance it is my considered opinion that, the proposal is considered to be acceptable and the application should be approved subject to the conditions listed below:-

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

Approve is recommended

#### **Approval Conditions**

##### Condition 1

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

Reason: This is a retrospective application.

##### Condition 2



The use of the buildings hereby approved shall be used only for Use Class B1: Business, in connection with the applicant's farm diversification project and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order.

**Condition 3**

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

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

**Case Officer:** Malachy McCrystal

**Date:** 21 February 2023

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

**Characteristics of the Site and Area:**

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

**Description of Proposal**

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

**Deferred Consideration:**

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

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

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

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

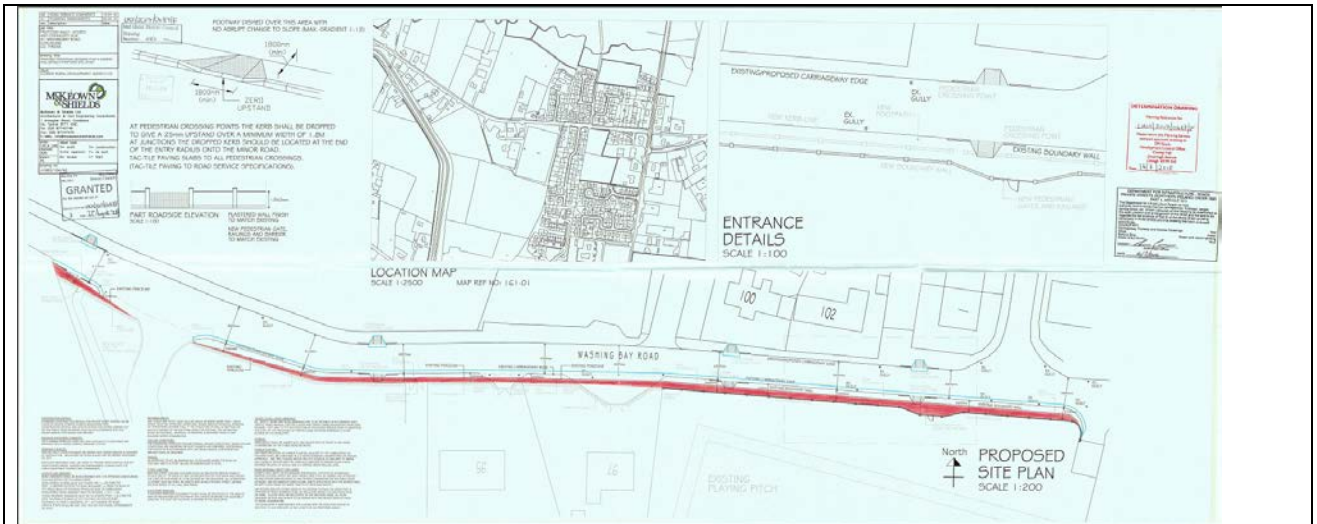


Fig 1 – approved access and footpath arrangements

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



Fig 2 – as built access arrangements



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



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

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



Fig 6 & Fig 7 – verge between pedestrian access points

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

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

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

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

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

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

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

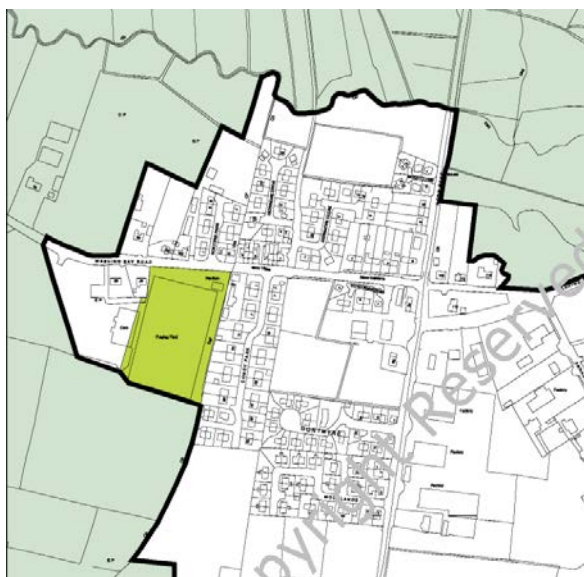


Fig 8 – settlement limits for Annaghmore, taken from Dungannon & South Tyrone Area Plan 2010

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



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

Conditions/Reasons for Refusal:

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

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

(The time of the curfew shall be 10pm)

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

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

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

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

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

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

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

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

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan

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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

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

### Description of Proposal

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

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

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

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

**Summary of Recommendation:**

Refuse is recommended

Refusal Reasons

Reason 1

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

**Signature(s):** Peter Hughes

**Date:** 22 May 2023

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

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

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

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

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

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

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

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

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

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

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

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

Ref: M/1994/6069  
Type: PREAPP

Status: PCO

Ref: M/2003/1128/F

Type: F

Status: PG

Ref: M/2008/0977/F

Type: F

Status: PG

Ref: M/2010/0803/F

Type: F

Status: PG

Ref: M/2004/1941

Type: F

Status: APPRET

Ref: M/2013/0235/F

Type: F

Status: PG

Ref: M/2002/1155/F

Type: F

Status: PG

Ref: M/2010/0653/Q

Type: PREAPP

Status: EOLI

Ref: M/1999/0681/F

Type: F

Status: PG

Ref: M/2000/0742

Type: F

Status: APPRET

Ref: M/2002/0607/F

Type: F

Status: PG

Ref: M/1996/0217%

Type: F

Status: PCO



Ref: M/1998/0873

Type: F

Status: PCO

Ref: M/2005/1753/Q

Type: PREAPP

Status: PCO

Ref: M/1987/0031

Type: O

Status: PG

Ref: M/2007/0648/F

Type: F

Status: PG

Ref: M/1987/056601

Type: H13

Status: PG

Ref: M/1987/0566

Type: RM

Status: PG

Ref: M/2003/0618/F

Type: F

Status: PG

Ref: M/1994/6063

Type: PREAPP

Status: PCO

Ref: M/1994/0474

Type: F

Status: PCO

Ref: M/1988/0384

Type: RM

Status: PCO

Ref: M/1998/4043

Type: P

Status: PCO

Ref: M/2006/1601/F

Type: F

Status: PG

Ref: M/2005/2408/LDP

Type: LDP

Status: PG

Ref: M/2006/1285/F

Type: F

Status: PG

Ref: M/2005/1767/F

Type: F

Status: PG

Ref: M/2005/2155/F

Type: F

Status: PG

Ref: M/1990/0658

Type: F

Status: PCO

Ref: M/2009/0544/F

Type: F

Status: PG

Ref: M/1999/0713/A41

Type: A41

Status: PDE

Ref: M/1985/0180

Type: H13

Status: PG

Ref: M/2004/0599/F

Type: F

Status: PG

Ref: LA09/2018/0188/O

Type: O

Status: PG

Ref: M/2005/0612/O

Type: O

Status: APPRET

Ref: M/1974/0192

Type: H13

Status: PG

Ref: M/1982/0072

Type: H13

Status: PR

Ref: LA09/2018/1364/RM

Type: RM

Status: PG

Ref: M/2009/0998/F

Type: F

Status: PG

Ref: M/1989/0218

Type: F

Status: PCO

Ref: M/1976/0100

Type: H13

Status: PG

Ref: M/2015/0142/F

Type: F

Status: PG

### **Summary of Consultee Responses**

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

DFI Roads - Enniskillen Office-Roads Consultation.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable





## Deferred Consideration Report

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

**Deferred Consideration:**

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

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

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

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

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

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

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

**Condition 2**

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

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

**Condition 3**

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

Reason: To ensure the right of way is not obstructed

**Signature(s):**Karla McKinless

**Date:** 18 July 2023



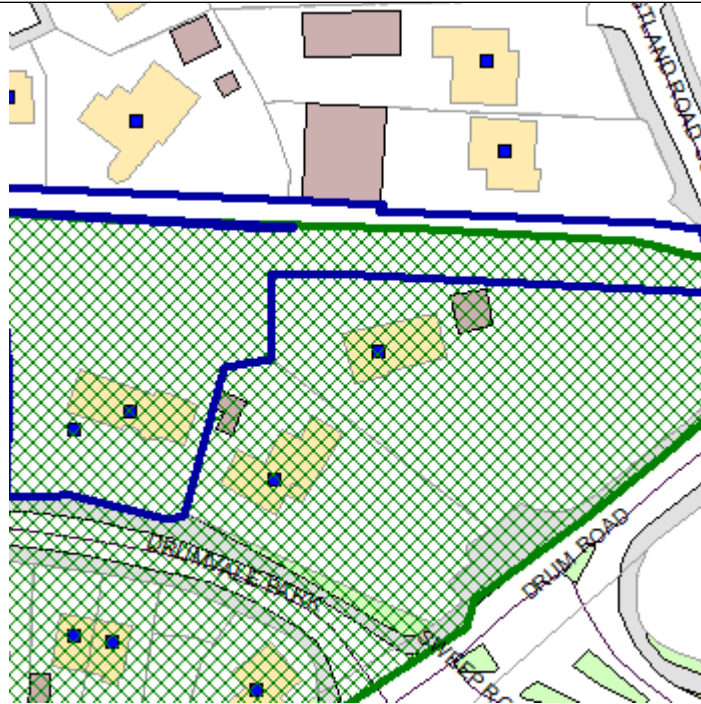
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/1106/F	<b>Target Date:</b> 17 October 2022
<b>Proposal:</b> Proposed Replacement Dwelling and Carport	<b>Location:</b> 5 Greenvale Cookstown BT80 8QS
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Odhran McCracken 4 Westwood Park Cookstown BT80 8YX	<b>Agent Name and Address:</b> Mr Peter Hampsey 35 OLD RECTORY PARK COOKSTOWN BT80 9XR
<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 - Recon response.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist.doc Roads Consultation full approval.docx

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

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

Concerns are addressed below:

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

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

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

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

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

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

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

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

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



### **Consultations**

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

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

### **Site History**

There is no relevant site history for this application site.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. This application was initially advertised in the local press on 19/07/2022. Eleven neighbouring properties were notified in relation to this application and two objectors have submitted correspondence.

### **Description of Proposal**

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

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

#### **Policy Consideration**

## **Cookstown Area Plan 2010**

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

## **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

The SPPS provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

The SPPS outlines the aims to providing sustainable development and with respect to that, should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting, and landscaping. It does not offer any change in policy direction regarding replacement dwellings.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 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 7 – Quality Residential Environments**

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

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

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

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

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

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

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

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

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

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

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

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

there is convenient access to public transport.

- Adequate and appropriate provision is made for parking;

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

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

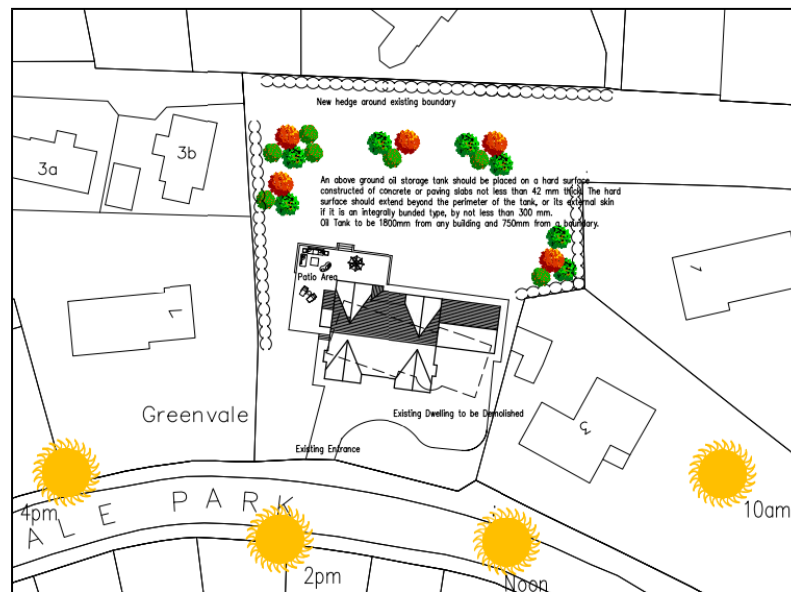
The dwelling has a proposed ridge height of 6m, 14.5m in length, and a gable depth of 8.7m with an additional 1.4m porch projection and 4.2m rear outshot. The walls are to be finished with a smooth painted render with locally sourced stone to the front porch. The proposed dwelling is similar in scale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



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

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

neighbouring dwellings.



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

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

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

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

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

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

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

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

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

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

**Summary of Recommendation:**

Approve is recommended

Approval Conditions

Condition 1

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

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

Condition 2

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

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

**Signature(s):** Zoe Douglas

**Date:** 21 December 2022



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

Ref: I/1977/0078

Proposals: CONVERSION OF LICENSED RESTAURANT TO HOTEL

Decision: PG

Decision Date:

Ref: I/1977/0258

Proposals: 4 NO BUNGALOWS

Decision: WITHDR

Decision Date:

Ref: I/1977/007801

Proposals: CONVERSION OF LICENSED RESTAURANT TO HOTEL

Decision: PG

Decision Date:

Ref: I/1986/0322

Proposals: EXTENSION TO HOTEL

Decision: WITHDR

Decision Date:

Ref: LA09/2022/1106/F

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

Decision:

Decision Date:

Ref: I/1991/0397

Proposals: Boundary Wall

Decision: PG

Decision Date:

Ref: I/2002/0841/F

Proposals: Proposed extension and alterations to dwelling

Decision: PG

Decision Date: 22-FEB-03

Ref: I/1977/0298

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/1977/029802

Proposals: SITE FOR DWELLING

Decision: PG

Decision Date:

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

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

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

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

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

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

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

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

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

Decision Date:

Ref: I/1978/0172

Proposals: EXTENSION TO GARDEN CENTRE

Decision: PG

Decision Date:

Ref: I/1994/0401

Proposals: Dwelling and Garage

Decision: PG

Decision Date:

Ref: I/1995/0413

Proposals: Proposed 2 No.dwellings and garages

Decision: WITHDR

Decision Date:

Ref: I/2004/0341/F

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

Decision: PG

Decision Date: 18-SEP-04

Ref: I/2002/0367/O

Proposals: Proposed site for dwelling

Decision: PG

Decision Date: 15-AUG-02

Ref: I/1996/0540

Proposals: Site for dwelling

Decision: PG

Decision Date:

Ref: I/1980/0232

Proposals: TWO NO NON-SUBSIDY DWELLING HOUSES

Decision: PG

Decision Date:

Ref: I/1992/0466

Proposals: Domestic Garage

Decision: PG

Decision Date:

Ref: I/1986/0033

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

Decision: PG  
Decision Date:

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

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

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

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

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

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

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

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

**Summary of Consultee Responses**

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

**Drawing Numbers and Title****Notification to Department (if relevant)**

Not Applicable



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Further Deferred Consideration Report

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

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

### Description of Proposal

Proposed replacement dwelling as a result of a fire damaged house

### Deferred Consideration:

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

The additional information presented shows:

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



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

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

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



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



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

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

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

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



Fig 4 – site in 2021 – google image

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

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



(Fig 5 – site and floodplain)

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

Conditions:

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

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

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

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

subsequent approval of the Council.

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

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

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

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

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

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

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

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

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

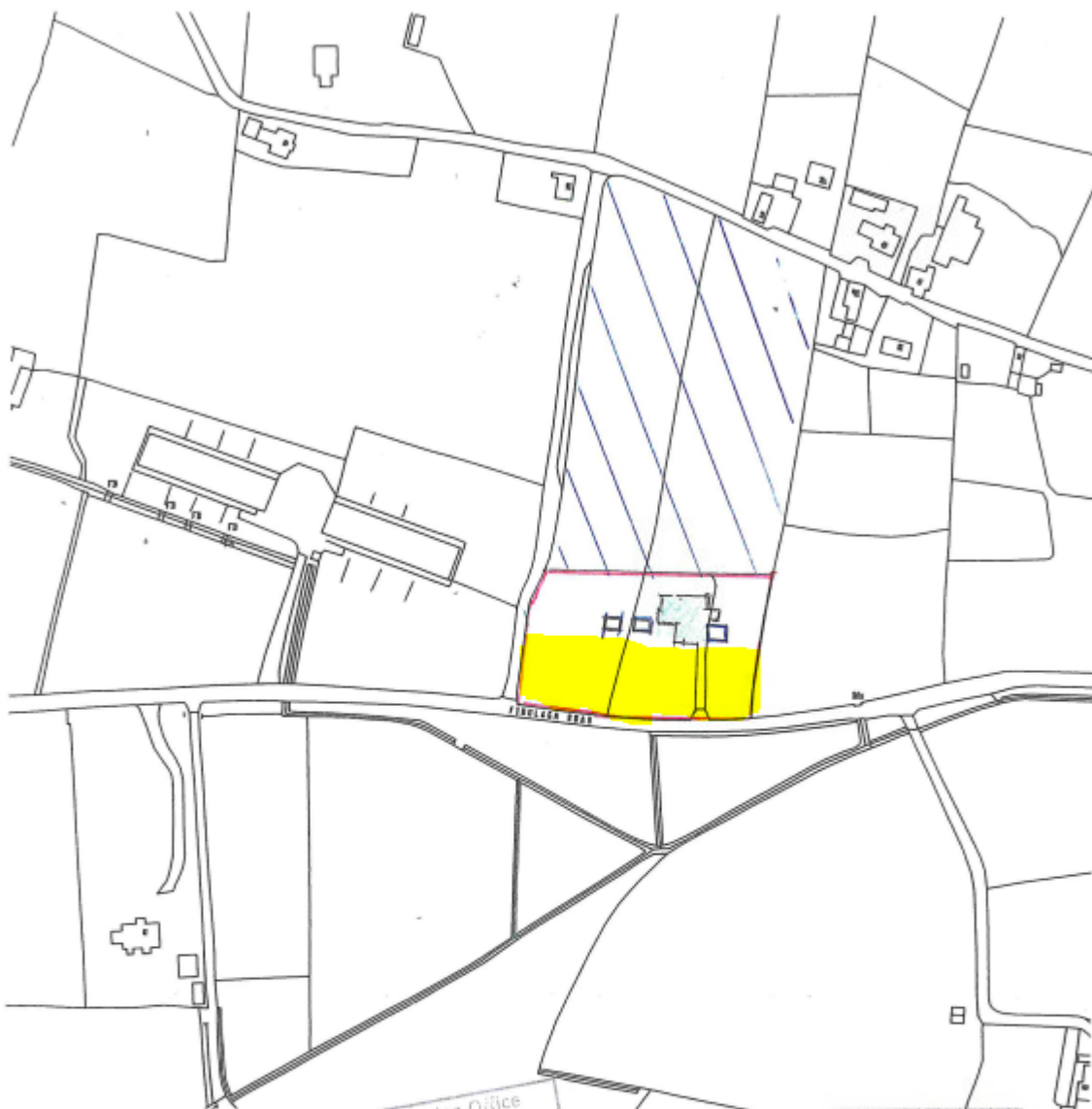
Reason: To protected the amenity of the residents of the proposed dwelling.

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

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

**Signature(s)**

**Date:**



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

Mid Ulster District Council  
Drawing  
Number. 01

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

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



Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

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

## Deferred Consideration Report

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<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/1288/O	<b>Target Date:</b> 2 December 2022
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the topography rises up by a couple of metres from the road to the back of the site. At the site are two small sheds and a concrete yard and there is established hedging along the roadside boundary.

**Description of Proposal**

Proposed replacement dwelling as a result of a fire damaged house

**Deferred Consideration:**

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

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

The site has a history of applications:

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

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

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

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

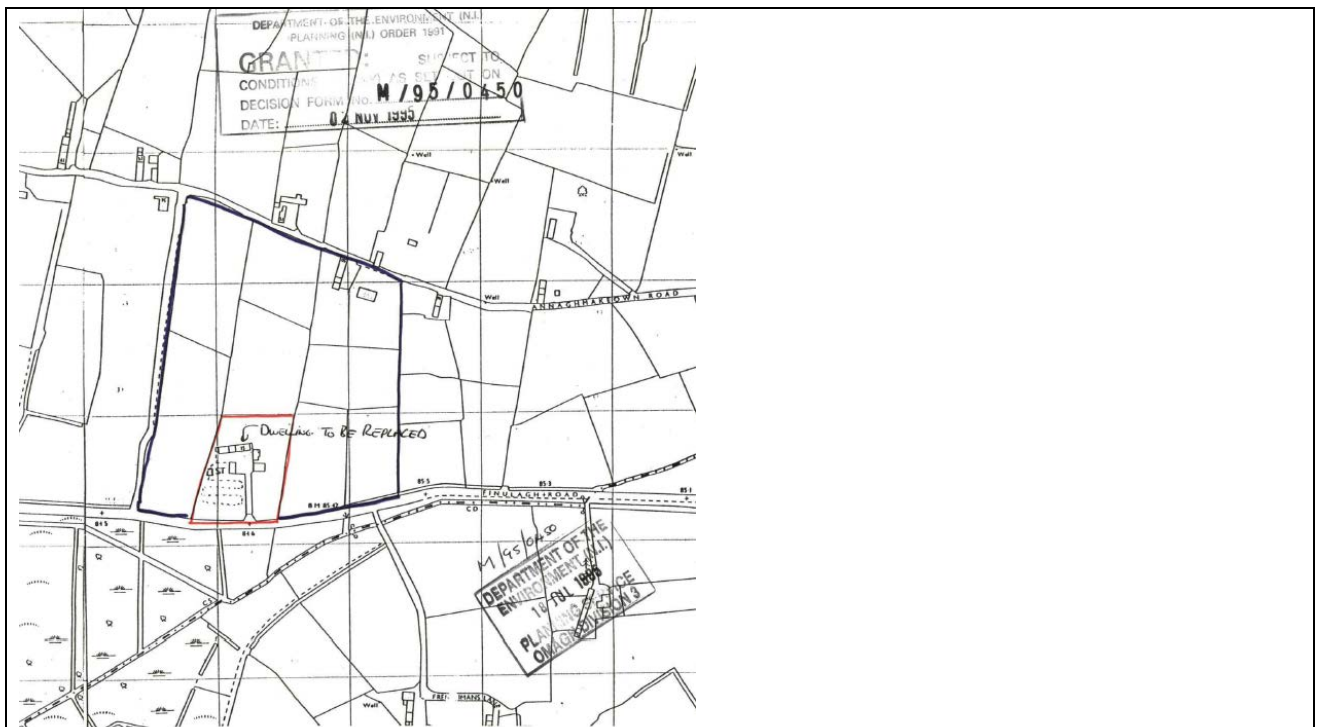


Fig 1 – stamped approved drawing for M/1995/0450

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

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

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



Conditions/Reasons for Refusal:

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

**Signature(s)**

**Date:**

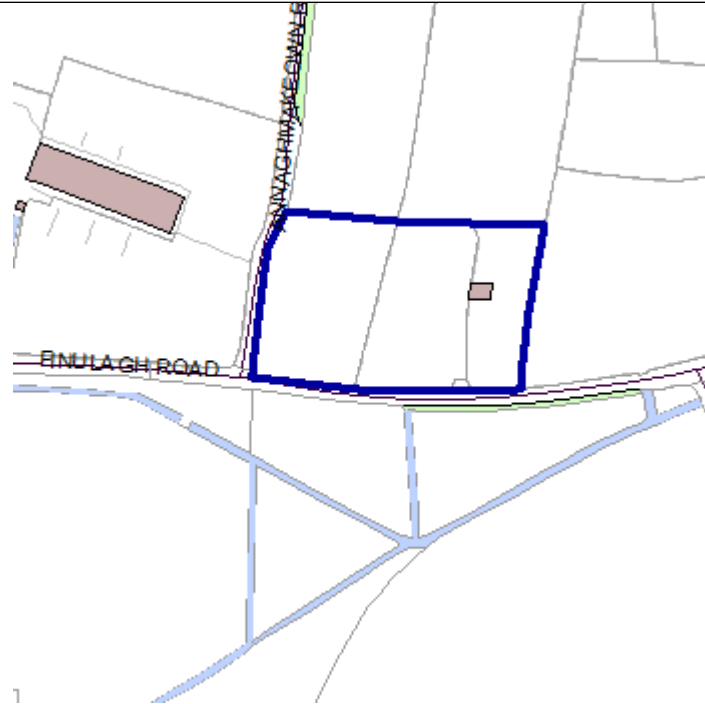


## Development Management Officer Report Committee Application

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

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

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

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

## **Description of Proposal**

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

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

### **Policy Consideration**

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

### **Representations**

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

### **Planning History**

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

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

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

Dungannon – application withdrawn

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 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 in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations.

### **SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that**

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

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. As this proposal is for an infill dwelling CTY 8 is the relevant policy in the assessment.

### **CTY 8 – Infill Dwellings**

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



Figure 1 – Image from April 2021

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



Figure 2 – Image from the site visit

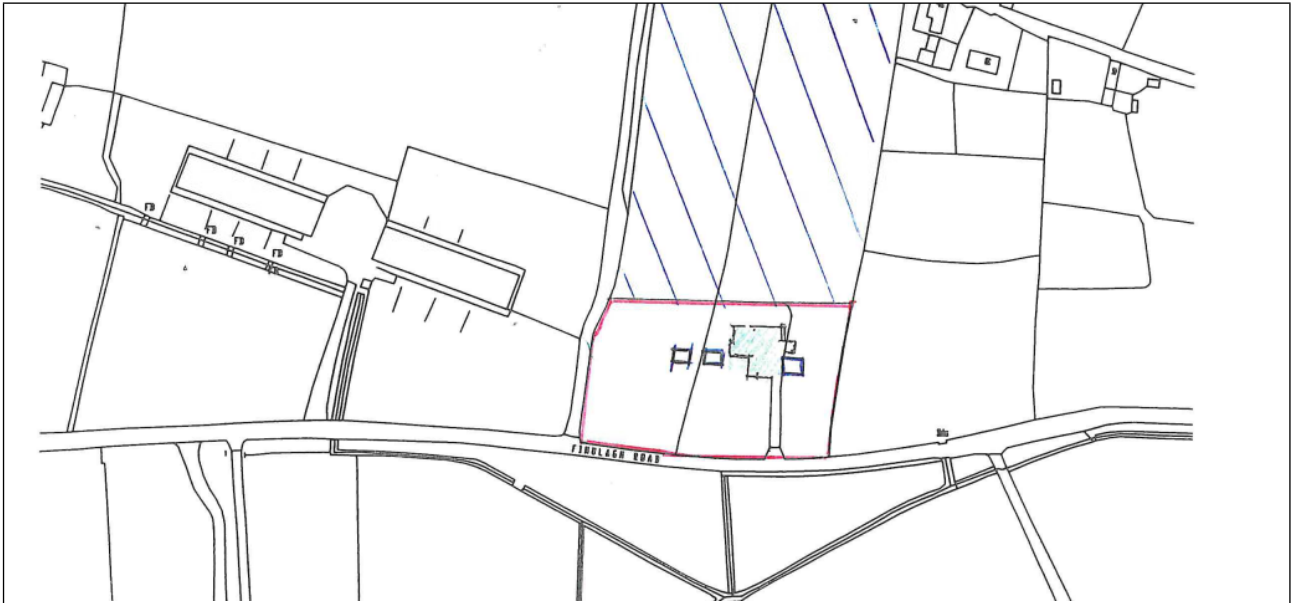


Figure 3 – snapshot from submitted plan

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

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

### **CTY 10 – Dwelling on a farm**

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

### **CTY 3 – Replacement Dwelling**

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

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

M/1992/0652 previously granted permission for a replacement dwelling at this site on the 5<sup>th</sup> Feb 1993 but these approvals were never enacted and they have not lapsed. The agent confirmed through photographs that there was once a two-storey dwelling at this site, and it had burnt down. The policy in CTY 3 does state dwellings are eligible for replacement if they have recently been destroyed by fire. Policy states that evidence must be provided about the status and previous condition of the building and the extent of the damage must be provided. The agent was unable to provide a fire report and in a supporting email dated 8<sup>th</sup> Dec 2022 the agent states the dwelling was destroyed in the late 1990s and fire records only go back to the year 2000. I consider as the dwelling was not recently fire damaged and was destroyed over 20 years ago it does not meet this criterion in CTY 3.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

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

### **CTY 14 – Rural Character**

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

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

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

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

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

### **PPS 15 – Planning and Flood Risk**

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

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



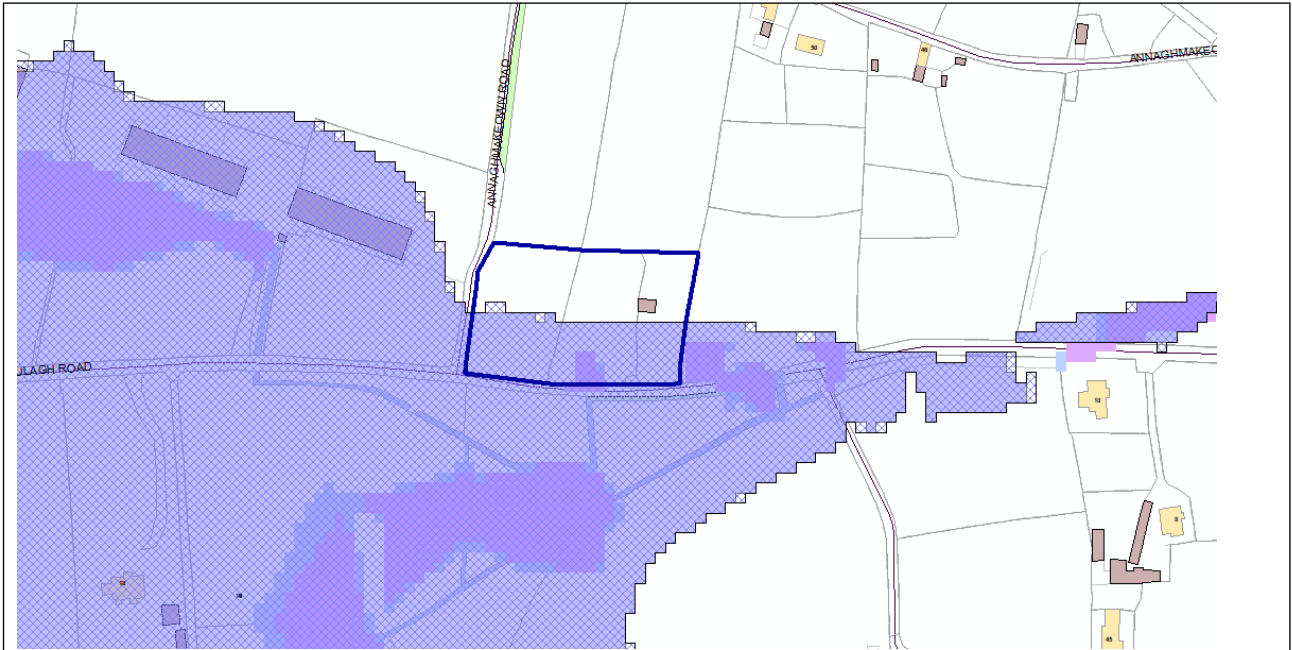


Figure 4 – Image showing the extent of the flood plain

### Other Considerations

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

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

### Summary of Recommendation:

Refuse is recommended

The proposal is recommended for refusal as it does not meet the policies in CTY1, CTY3, and CTY8 in PPS 21 – Sustainable Development in the Countryside.

### Refusal Reasons

#### Reason 1

Contrary to CTY 1 - Development in the Countryside in PPS 21 Sustainable Development in the Countryside in that there is no overriding reason why the

development cannot be located within a settlement.

**Reason 2**

Contrary to CTY 3 - Replacement Dwellings in PPS 21 Sustainable Development in the Countryside in that there is no dwelling to be replaced and the dwelling that was previously on site was not recently destroyed and no evidence about the extent of the fire damage has been provided.

**Reason 3**

Contrary to CTY 8 - Ribbon Development in PPS 21 Sustainable Development in the Countryside in that the development is not an exception within policy as there are not three or more buildings along a road frontage.

**Signature(s):** Gillian Beattie

**Date:** 9 February 2023

<b>ANNEX</b>	
<b>Date Valid</b>	19 August 2022
<b>Date First Advertised</b>	1 September 2022
<b>Date Last Advertised</b>	1 September 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1992/0652B Proposals: Replacement Dwelling Decision: WITHDR Decision Date:</p> <p>Ref: M/1992/0652 Proposals: Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: M/1995/0450 Proposals: Replacement Dwelling Decision: PG Decision Date:</p> <p>Ref: LA09/2022/1288/O Proposals: Dwelling in Compliance with policy (CTY 8) ie, (Infil Gap Site) Decision: Decision Date:</p> <p>Ref: LA09/2021/0160/O Proposals: Proposed farm dwelling</p>	

Decision: WDN  
Decision Date: 19-NOV-21

Ref: M/2004/1298/F  
Proposals: Two free range poultry houses each with a capacity of 9,600 birds.  
Decision: PG  
Decision Date: 22-NOV-04

**Summary of Consultee Responses**

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

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

## Deferred Consideration Report

<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



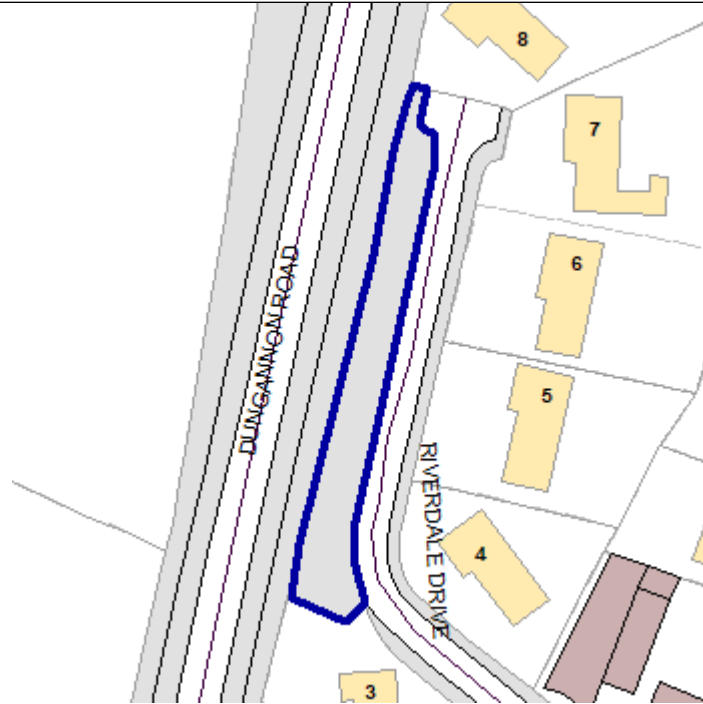


## Development Management Officer Report Committee Application

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

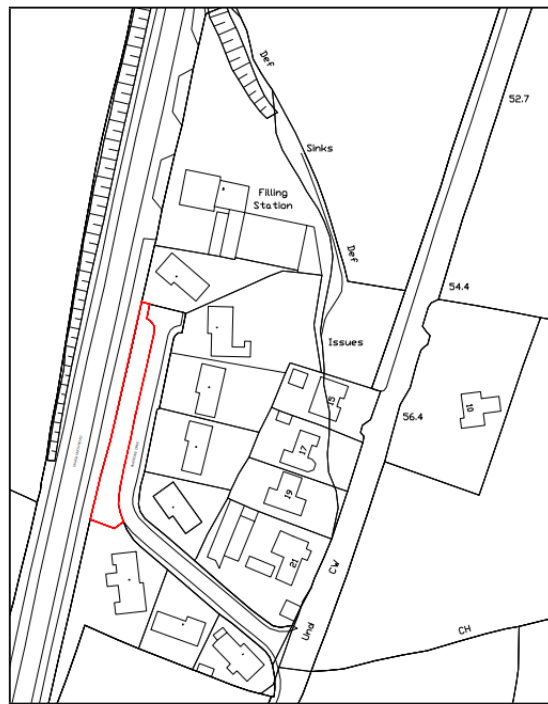
Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside.

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