



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.1
<b>Application ID:</b> LA09/2020/0099/F	<b>Target Date:</b> 19 March 2020
<b>Proposal:</b> Proposed 2 storey dwelling and garage with attached car port	<b>Location:</b> 10M North Of No 1 The Brambles Station Road Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge Magherafelt BT41 3SG
<b>Executive Summary:</b> <p>The application is being presented to members with the recommendation to refuse due to a lack of information being provided by the agent. NIEA and environmental health were consulted on the proposal due concerns regarding to contaminated lands. Both raised concerns regarding insufficient information being provided to assess any potential impacts in relation to contaminated land at the site. For this reason the application is being recommended as a refusal. Neighbour notification and publication in the local newspaper took place and no third party objections were received. DfI Roads were consulted on the proposal and offered no objections subject to a condition.</p>	

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

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Single Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR

**Representations:**

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

**Summary of Issues**

Insufficient information has been provided to allow NIEA and Environmental Health provide a substantial response to assess potential impacts in relation to contaminated land. The proposal is therefore contrary to the SPPS, Policy NH 2 of PPS 2 and Policy QD1 of PPS 7

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

The site is located within the settlement limits of Magherafelt, outside any other designations or zonings as per the Magherafelt Area Plan 2015. The red line of the application site is a rectangular shaped site, which extends in western direction from Station Road. The site is bounded on all sides by a mix of fencing, hedges and trees. To the south of the site is the Brambles housing development and directly to the north is the dwelling at 36 Station Road. To the east, opposite the road is an engineering business.

#### **Representations**

No third party representations have been received.

### **Description of Proposal**

This is a full planning application for a proposed 2 storey dwelling and garage with attached car port.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 7: Quality Residential Environments  
PPS 3: Access, Movement and Parking

The site is located within the Settlement Limit of Magherafelt, outside any other designations.

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. Paragraph 4.11 states that "There are a wide range of environment and amenity considerations, including noise and air quality, which should be taken into account by planning authorities when managing development."

Paragraph 4.12 further states, "Other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. However, the above mentioned considerations are not exhaustive and planning authorities will be best placed to identify and consider, in consultation with stakeholders, all relevant environment and amenity considerations for their areas." The concerns relating to contained land are a

material consideration of this planning application, and given insufficient information has been provided to allow relevant consultees (NIEA & Environmental Health) to assess any potential impacts or mitigation proposals, the proposal fails to comply with the SPPS in this regard.

Paragraph 6.179 of the SPPS states, "The presence or potential presence of a legally protected species is an important consideration in decision-making. If there is evidence to suggest that a protected species is present on site or may be affected by a proposed development, steps must be taken to establish whether it is present, the requirements of the species must be factored into the planning and design of the development, and any likely impact on the species must be fully considered prior to any determination." As will be discussed further within this report, NIEA Natural Environment Division (NED) requested further information by the way of a Preliminary Ecological Appraisal (PEA) to be carried out for this site in order to assess the potential impacts on natural heritage interests. This information was not forthcoming and as such, is contrary to the SPPS.

Policy QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development should be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area.

All proposals for residential development will be expected to conform to all of the following criteria:

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

I am content that the development respects the surrounding context and is appropriate to the character of the area. The site is relatively level, although it is unclear if any land raising has previously taken place on site. The land does rise slightly in a northern direction but I am content the proposed dwelling is acceptable at this location.

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

There are no features of archaeological or built heritage in the area to be concerned with.

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

Given this is a single dwelling, provision for public open space is not required as part of the development. I am content there is sufficient private open space provided for the dwelling.

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

(e) a movement pattern is provided that supports walking and cycling, meets the needs

of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures;

Given the proposal is for a single dwelling, I am content that provision for local neighbourhood facilities and a movement pattern is not required. The site is located within the settlement limits and can access all existing facilities.

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

I am content there is adequate provision for parking at the dwelling.

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

The design is a large two storey dwelling and the design of the dwelling is acceptable for a dwelling located within the settlement limits.

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

I am content that there is sufficient separation distance between the proposed dwelling and the existing dwellings to the north and south of the site to ensure there are no issues with overlooking, loss of light or overshadowing. Environmental Health were consulted and advised that the proposal is located within close proximity to an engineering works and advised the applicant may wish to consider suitable mitigation measures to protect their development from unwanted noise. This may include upgraded acoustic glazing, acoustic fencing etc.

Environmental Health stated the dwelling is proposed on lands which have had previously been used for landfill/tarmac activities, and as such could have adverse impacts on the proposed dwelling. The applicant was advised to submit sufficient information to determine the existence or otherwise of contamination, its nature and the risks it may pose and whether they may be remediated/managed to an acceptable level.

The applicant submitted a Causeway Geotech Site Investigation report in support of the application. Environmental Health and NIEA were both consulted on this. Environmental Health responded to state, "The report provides brief details of an intrusive ground investigation and soil analysis without any rationale for the sampling regime. The report identifies some exceedances of Environment Agency Soil Guideline Values (SGV's) and Generic Assessment Criteria (GAC's) but provides no further information on the risks posed by contamination or what, if any, remediation is required to make the site suitable for the proposed end use."

NIEA Regulation Unit Land and Groundwater Team responded to state they have not been provided with sufficient information to advise the Planning Authority as to the environmental risks from this development.

Natural Environment Division of NIEA also responded to state that the hedgerows and mature trees on site have the potential to support roosting bats and/or nesting birds. NED acknowledges that the consultation letter notes that the Schedule 9 invasive species Japanese Knotweed has been located within the site. However as no ecological

information was submitted with this application and no other details are available, further information is required.

This further information was requested on a number of occasions from the agent. The original case officer first requested the information in June 2020 with follow up emails sent in December 2020 and in 2021 with no information submitted. The case then changed case officer and two further requests were made to the agent via email in January 2024 and followed up again in February 2024. The agent advised via a phone call that they would not be submitting any further information. As such, the proposal fails to comply with criteria (h) of policy QD1 of PPS 7, in that insufficient information has been provided assess any potential impacts in relation to contaminated land at the site.

(i) the development is designed to deter crime and promote personal safety  
I have no concerns regarding crime or personal safety at the site.

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

DfI Roads were consulted and are content with the proposal subject to a condition to ensure the access is provided and maintained.

#### PPS 2: Natural Heritage

As previously mentioned NIEA were consulted on the proposal and NED requested a Preliminary Ecological Appraisal (PEA) to be carried out for this site in order to assess the potential impacts on natural heritage interests. As this information has not been forthcoming the proposal also fails to satisfy Policy NH 2 as insufficient information has been provided to ensure the development is not likely to harm a species protected by law, as there is the potential for bat roosting on site.

#### Other Material Considerations

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

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

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy QD1 of PPS 7- Quality Residential Environments and the SPPS in that insufficient information has been provided to ensure that the proposal will not be adversely impacted by any potential contaminated land at the site.

**Reason 2**

The proposal is contrary to Policy NH 2 of PPS 2- Natural heritage and the SPPS in that insufficient information has been provided to ensure that the proposal will not harm a species protected by law.

**Case Officer:** Ciaran Devlin

**Date:** 26 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	23 January 2020
<b>Date First Advertised</b>	11 February 2020
<b>Date Last Advertised</b>	11 February 2020
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  17 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  38 Station Road Magherafelt Londonderry BT45 5EB  The Owner / Occupier  39 Station Road, Magherafelt, Londonderry, BT45 5EB  The Owner / Occupier  5 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  41 Station Road, Magherafelt, Londonderry, BT45 5EB  The Owner / Occupier  7 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  3 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  1 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  36 Station Road Magherafelt Londonderry BT45 5EB  The Owner / Occupier  11 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  15 The Brambles Magherafelt Londonderry BT45 5RY  The Owner / Occupier  9 The Brambles Magherafelt Londonderry BT45 5RY</p>	
<b>Date of Last Neighbour Notification</b>	31 January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2001/0755/F  Proposals: Single Storey Extension To Rear And Side Of Dwelling  Decision: PG  Decision Date: 11-OCT-01</p>	



Ref: H/1988/0182  
Proposals: BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/1997/0576  
Proposals: CHANGE OF HOUSE TYPE  
Decision: PG  
Decision Date:

Ref: H/1996/0265  
Proposals: HOUSING DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: H/2013/0279/O  
Proposals: Proposed Erection of Industrial Unit, Car Parking Facilities, Security Fencing  
Drainage and Associated Site Works  
Decision: PG  
Decision Date: 19-MAR-14

Ref: H/1993/6055  
Proposals: LANDS FOR INDUSTRY STATION ROAD MAGHERAFELT  
Decision: QL  
Decision Date:

Ref: H/1995/0645  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: WITHDR  
Decision Date:

Ref: H/2008/0225/F  
Proposals: Alterations at front to form entrance to driveway from Station Road,  
Magherafelt  
Decision: PG  
Decision Date: 31-OCT-08

Ref: H/2010/0290/F  
Proposals: Retrospective application for a Rear sunroom extension & detached garage  
Decision: PG  
Decision Date: 03-AUG-10

Ref: LA09/2018/0731/F  
Proposals: Demolition of porch, kitchen and garage with proposed single storey  
extension to side of existing dwelling with detached garage.  
Decision: PG  
Decision Date: 18-OCT-18

Ref: H/1995/0128

Proposals: ALTS AND ADDS TO DWELLING

Decision: PG

Decision Date:

Ref: H/1995/0082

Proposals: EXTENSION TO INDUSTRIAL ESTATE

Decision: PG

Decision Date: 04-JUL-95

Ref: H/1995/6152

Proposals: SITE OF PUBLIC HOUSING STATION ROAD MAGHERAFELT

Decision: QL

Decision Date:

Ref: H/2004/0614/O

Proposals: Site for Housing Development

Decision: PR

Decision Date: 26-NOV-08

Ref: H/2006/0568/F

Proposals: Proposed Housing development of 56 dwelling units comprising apartments, townhouses, semi detached and detached dwellings.

Decision: AD

Decision Date: 15-SEP-08

Ref: H/1986/0500

Proposals: HV O/H LINE BM 8126

Decision: PG

Decision Date:

Ref: LA09/2022/1271/F

Proposals: Proposed Dwelling

Decision: PG

Decision Date: 22-FEB-23

Ref: LA09/2020/0099/F

Proposals: Proposed 2 storey dwelling and garage with attached car port

Decision:

Decision Date:

Ref: H/2004/0632/O

Proposals: Housing development

Decision:

Decision Date:

Ref: H/2004/0637/F

Proposals: Alterations and Additions to Dwelling.

Decision: 461

Decision Date: 01-FEB-05

Ref: H/2010/0505/F

Proposals: Proposed Car Washing Facilities And Associated Ground Works un-sheltered

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

NI Water - Single Units West-Substantive: TBCResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

NIEA-Substantive: YResponseType: FR

Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR

### **Drawing Numbers and Title**

Garage Plans      Plan Ref: 04

Site Layout or Block Plan      Plan Ref: 02

Proposed Plans      Plan Ref: 03

Site Location Plan      Plan Ref: 01

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.2
<b>Application ID:</b> LA09/2020/1319/F	<b>Target Date:</b> 20 May 2021
<b>Proposal:</b> Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments) & 8 industrial units (light industrial & storage)	<b>Location:</b> Immediately North Of 31 Ballygawley Road Dungannon Bounded By Cloneen & Ballysaggart Park To The South & West
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Orchard County Contracts 17 Mullanary Road Dungannon BT71 7LS	<b>Agent Name and Address:</b> O'Callaghan Planning 20 Castle Street Newry BT34 2BY
<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>
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
		Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	NIEA	Substantive: YResponseType: FR
	Northern Ireland Housing Executive - Central Planning	Substantive: TBCResponseType: FR
Non Statutory Consultee	Rivers Agency	488713 final.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2020 1319 F MUD Ballygawley Rd.doc
Statutory Consultee	NIEA	PRT LA09-2020-1319-

		F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2020 1319 F (002).doc
Statutory Consultee	Rivers Agency	An extension of 30 days is requested for the following reason: - the consultation requires additional assessment from the internal DfI Rivers' modelling unit because the FRA disputes the findings of the flood plain extents affecting the site.
Statutory Consultee	Rivers Agency	71333 - final.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 20 1319 F Ballygawley Rd Dungannon.doc
Statutory Consultee	NIEA	PRT LA09-2020-1319-F.PDF
Statutory Consultee	NIEA	PRT LA09 2020 1319 F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	08-02-2024.docx
Statutory Consultee	NIEA	PRT LA09 2020 1319 F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions 15-02-2024.docx
Statutory Consultee	NI Water - Multiple Units West	LA09-2020-1319-F.pdf
Statutory Consultee	NIEA	PRT LA09-202-1319-F.pdf
Statutory Consultee	MUDC Environment and Conservation Team	Consulted in error.Consulted in error.
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 22 1319 MUD Ballygawley Rd.doc
Statutory Consultee	NIEA	PRT LA09-2020-1319-F.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 20 1319 F Ballygawley Rd Dungannon.doc
Statutory Consultee	Environmental Health Mid Ulster Council	LA09 20 1319 F Ballygawley Rd Dungannon.doc
Statutory Consultee	DFI Roads - Enniskillen Office	22-02-2024.docx
Statutory Consultee	NIEA	PRT LA09 2020 1319 F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	06-03-2023.docx
Statutory Consultee	NIEA	PRT LA09-2020-1319-F.PDF
<b>Representations:</b>		
Letters of Support		0
Letters of Objection		0
Letters Non Committal		0
Number of Support Petitions and		

signatures	
Number of Petitions of Objection and signatures	
<b>Summary of Issues</b>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is located North of 31 Ballygawley Road, Dungannon and is bounded by Cloneen and Ballysaggart Park to the south and west. The site is low lying but rises gradually from SE to NW. The western boundary of the site is an embankment that slopes upwards to Ballysaggart Park.</p> <p>Access is by an existing road which serves the adjacent Nursing Home. The site currently is cleared with no buildings on it.</p> <p>The surrounding area is built up with mixed character of residential developments. The surrounding area is of mixed character. There are residential units to North, NW, West and SW and to the south. Some terraced, semi-detached, generally all being 2 storey.</p> <p>The Nursing home to located to the south, and a car show room and forecourt to the SE. There is a building supplies merchant to the south of the site. There is a convenience store to the NE.</p> <p>The site is zoned for industry and business use in the DSTAP 2010, designated under D1 05 - Lands at Ballygawley Road.</p> <p>Planning approval was granted on lands including this site under M/2008/0496/F for a mixed-use scheme in 2011. This approval was granted as an 'exception' to normal policy restrictions. This permission has now lapsed.</p> <p>M/2014/0343/F was granted approval on adjacent site for purposes of Recreation and Open Space in 2014. In this assessment approval was granted as an 'exception' to normal policy restrictions in terms of the normal presumption against the loss of industrial land.</p>	
<p><b>Description of Proposal</b></p> <p>Erection of mixed-use development comprising 80 units (56 dwellings &amp; 24 apartments) 45 Units will be for social housing- 56% of the housing &amp; 8 industrial units (light industrial &amp; storage)</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b>Policy Consideration</b></p>	

## Planning Assessment of Policy and Other Material Considerations

### Relevant planning history

M/2008/0496/F was approved in 2011 for a mixed-use scheme on lands that included this site. The permission granted permission for 15 light industrial units, 1 storage warehouse and 97 social housing units. Permission has been granted as an 'exception' to normal policy restrictions, as the site is zoned for industry. The developer submitted evidence that the site was not economically viable solely for industry, there would be severe site enabling costs due to poor geotechnical characteristics, industrial space in the area does not justify the expenditure for such development and there was a significant amount of undeveloped industrial land in Dungannon. This permission has since expired, however the agent has advised works commenced on site although no Certificate of lawfulness has been submitted to verify this. This approval involved a planning agreement.

M/2014/343/F was granted in 2014 to Dungannon & South Tyrone Borough Council to develop this for the purposes of recreation and open space. This site forms part of the same industrial zoning as M/08/0496/F and these lands has been included in that application. This again was granted as an 'exception' to normal planning restrictions. LA09/2016/0849/F - Proposed erection of new building supplies merchant's premises with associated access, yard area, vehicle turning area, car parking and all associated site works. This was withdrawn on the site.

Image 1 shows the application site outlined in red. Image 2 shows the approval granted under M/2008/0496/F, which included additional lands. These lands have now been approved under M/2014/343/F for open space/recreation, shown in Image 3.

Image 1

Image 2

Image 3

Dungannon and South Tyrone Area Plan 2010, RDS 2035, SPPS, PPS2, PPS3, PPS4, PPS7, PPS8, PPS12, PPS15, Creating Places.

Dungannon and South Tyrone Area Plan 2010

The key issue with this proposal is the potential conflict with policy for development on zoned land/the need to develop land in accordance with the zoning and compliance with the sites key site requirements.

The site is zoned for industry and business use in the DSTAP 2010, designated under D1 05 – Lands at Ballygawley Road.

Policy IND1 Industry and Business



Existing Industry and Business Use areas are identified and listed within the Area Plan.

It states in the Plan, 'Within both existing and additional areas, planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses where the development meets the key site requirements contained within Part 3 of the Plan. The introduction of inappropriate non-conforming uses that would prejudice the efficient operation of industrial and business uses will not normally be permitted'.

While policy presumes against the loss of industrial land, the use of the word 'normally' confirms that there will be cases whereby industrial land can be reallocated for a firm development proposal, even though the policy presumes against the loss of industrial land. The policy deals with the matter of a 'non-confirming use' that would prejudice the efficient operation of industrial and business use. The current proposal will not have this effect and the presumption can therefore be set aside, as has been previously done on this site and in this particular zoning.

This extant Plan is clearly out of date, however The Local Dev Plan 2023 draft plan strategy does not carry determining weight. 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.

In this case, due to the nature of the proposal, the planning history on the site which is a material consideration and that adequate sites in the area are being retained for Industrial uses, weight can be given to this in order to justify it in terms of the spirit of the Area Plan. Developing this site would not diminish what is available to prospective industrial developers.

In addition, the development should be encouraged as it is providing an element of social housing where there is a need for this in the area as identified by Ark Housing Association.

The dwellings marked in red on the Site Layout have been identified as the social housing sites.

The breakdown of these are as follow,

8 No. 1 Bed apartments.

25 No. 2 Bedroom Houses

9 No. 3 Bedroom Houses

3 No. 4 Bedroom Houses.

45 Units in Total so over 50% of the housing element of the development.

## Key Site Requirements of D1 05 – Land at Ballygawley Road

As an exception is being made to the Industrial zoning, so to a certain extent the key site requirements can be set aside, however they have been generally complied with.

- Vehicular access should be provided from Ballygawley.

The access is taken from the existing Nursing home served from here.

- Development should be set back at least 20 metres from existing residential units with a landscaping buffering.

A suitable degree of separation has been provided between existing and proposed properties. There will also be the benefit of the planned open space development and the landscape it will provide.

- Pedestrian access should be provided through the site link with Ballygawley Road and Ballysaggart Park.

This is shown to be to provided, as well as a pathway to the open space area.

- Foul sewer pumping may be required.

Applicant is aware that effluent may need to be pumped, NI Water has been consulted and are content.

- The open watercourse to the SE portion of the site should be obtained and incorporated within the layout.

Plans show the open watercourse indicating a fence that can be accessed for maintenance purposes. The applicant is in possession of the statutory consent to culvert the watercourse.

- Infilling may be required due to low lying nature of the site

Applicant is aware of this and is content they can achieve the development without relying on imported material.

## PPS4 – PLANNING AND ECONOMIC DEVELOPMENT

### PED 1- Economic Development in Settlements

The element of the proposal that includes light Industry is assessed in line with PED1. The storage units are approx. 1000 sq ft and are intended to facilitate small scale business activity. Their scale, form and nature will be appropriate to this location.

### PED 7 - Retention of zoned land and economic development uses

Development that would result in the loss of land or buildings zoned for economic

development use in a development plan (either existing areas or new allocations) to other uses will not be permitted, unless the zoned land has been substantially developed for alternative uses.

An exception will be permitted for the development of a sui generis employment use within an existing or proposed industrial/employment area where it can be demonstrated that: the proposal is compatible with the predominant industrial use; it is of a scale, nature and form appropriate to the location; and provided approval will not lead to a significant diminution of the industrial/employment land resource in the locality and the plan area generally. Retailing or commercial leisure development will not be permitted except where justified as acceptable ancillary development.

The land has not been substantially developed for alternative uses. The exception under PED7 for sui generis employment uses can't be met by the residential part of the policy so an exception or departure from this would be required to allow for this proposal. In the assessment of the previous approval, it was taken into account that the sites ground conditions were so poor that disproportionate construction costs will arise in the event the site is developed in accordance with the Plan's zoning. These costs can only be recovered through the resale of individual dwellings, which is the only viable course of action and development of the site for industrial purposes would not be economically viable owing to the amount of preliminary works that would be required. These circumstances have not changed since the granting of that permission and so is this is still a valid consideration.

The agent has put forward the argument that the release of this land and its development for industrial purposes is not likely to occur due to the lack of demand for industrial development at this location. The land will remain undeveloped, causing blight as it is clear demand for industrial land is being met elsewhere given the length of time this land has been lying undeveloped.

Precedents have been established within this zoned land to alternative uses including the following;

M/2005/1294/O - Builders Yard

M/2007/0731/F - Nursing Home

M/2005/1287/O - Bunscoil

M/2008/0496/F - Residential development

M/2014/0343/F - Open Space

So on 5 separate occasions the zoning here has been set aside to allow the above approvals, which has established a precedent and indicates there is not a need for this land for industrial use nor has there been the interest or demand to do so.

The argument has been put forward that the proposal is 'enabling development' , because the development of the site, for exclusively industrial purposes, would not be financially viable, an alternative has been found, which will deliver some industrial development to make the scheme financially achievable. The inclusion of affordable housing allows for this to occur and without it there is no other potential revenue stream available.

This will be a mixed-use scheme, including some industrial and the housing is required to ensure scheme can go ahead, this scheme will ensure part of the land will be used for industrial and would be more desirable in policy terms, than exclusively housing. The proposal aims to delivery quality and affordable housing for the area. The proposal will include an area of Open Space which will be accessible to the surrounding population.

This application will allow for the provision of 10,000 sq ft of industrial units, which otherwise would not be deliverable and in turn will create employment making an important contribution to the local economy.

Applications must be considered on their own merits, and taking the benefits of this proposal along with the previous planning histories, I feel it is justified to depart from the confines of PED7.

PED9 relates to the general criteria for economic development.

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all the following criteria:

(a) it is compatible with surrounding land uses;

The proposal will be in keeping with the existing character of the area and uses, in terms of the use and the visual element.

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

There will be sufficient distance between existing and proposed units to ensure this does not occur. Landscaping shown is adequate to aid with this.

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

No archaeological or built heritage features nearby.

Following a number of ecological reports submitted to NIED – Natural Heritage they have now considered all the impacts on natural heritage interests and on the basis of this information have no concerns subject to conditions provided.

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

The proposed 'built development' is all outside the flood plain, with only some footpaths and part of the road located within it. Due to the previous approval, it would be unreasonable to ask for any changes in this respect.

DFI Rivers were consulted, and this is detailed further in the report under Policy PPS15, relevant conditions have been provided.

(e) it does not create a noise nuisance;

Env Health were consulted and following the provision of additional information to ensure the nearby Nursing home was not detrimentally impacted upon, they have accepted the findings on predicted noises and provided conditions which aid in restricting operational hours.

There will be an acoustic fence around the perimeter of the industrial units, this will blend in with the overall development and aid in reducing any noise. Acoustic glazed windows are to be installed in all the proposed dwellings.

An acoustic fence will also be installed along the boundary of the development to the rear of units 1-4 to further mitigate any noise, especially for Willow Grove Nursing Home.

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

Due to the size and scale of the units emissions and effluents this is not an issue.

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

DFI Roads have been consulted and provided relevant conditions to be attached to any approval. There is only a moderate amount of traffic associated with the industrial units, which are light industry and storage only.

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

DFI Roads have been consulted and provided relevant conditions to be attached to any approval.

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

There is no impact on rights of way. The site is accessible to Dungannon town centre and there are regular bus services.

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

New landscaping will be introduced to aid with this and the development of the adjacent open space by the Council will be intrinsically linked to the development.

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

The industrial units will have limited visual impact and any storage will be fenced off.

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

This criterion has been met through maximum surveillance and defensible open space.

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

N/A as not located in the countryside.

Overall, the proposal meets with the criteria of PED9 of PPS4.

#### PPS7 - Quality Residential Environments

The residential part of this mixed development comprises of 80 units. Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments). 45 Units in Total so over 50% of the housing element of the development.

In order to ensure the delivery of the social housing element of the proposal a planning agreement is necessary. The planning agreement will be between the Council and the developer and will be required to ensure the delivery, timing and phasing of the social housing units.

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

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

The proposal has taken into account the townscape and landscape characters. The nearby dwellings are mainly 2 storey, and this layout would not adversely affect the character of the area.

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

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

In terms of public open space, an area has been provided to the south, however there is a new park adjacent to the site and the developer has focused on utilising this rather than providing formal play areas.

Private open space has been sufficiently provided for in line with Creating Places. Adequate and appropriate parking provision has been provided in line with Parking Standards and DFI Roads have given relevant conditions.

The requirements of QD1 of PPS7 have been met.

#### PPS8 – Open Space

A normal expectation of at least 10% of the total site area is required. However provision at a rate of less than 10% may be acceptable where the residential development 'is close to and would benefit from ease of access to areas of existing public open space' or 'is located within a town centre'.

In this case the site is located just outside the town centre, it would benefit from ease of access to areas of existing public open space (including the adjacent amenity site granted to the Council).

9% of open space has been provided, rather than the 10 normally desired, so in this case would be acceptable. The space provided by the developer is more for visual amenity rather than recreational on the basis of the provision of the open space adjacent recreational park.

#### PPS12 - Housing in Settlements

The main aims and objectives of this policy are to manage housing growth, achieve a sustainable pattern of development, promote housing within urban areas, increase housing without town cramming, promote good design and balanced communities. The proposal is considered to meet these requirements.

#### PPS15 – Planning and Flood Risk.

FLD1 - Development in Fluvial and coastal Flood Plains – Flood Maps (NI) indicate that the site lies partially within the 1 in 100-year fluvial flood plain. In accordance with policy development will not be permitted within the 1 in 100-year fluvial flood plain unless the Planning Authority deems it to be an 'exception' or of overriding regional or sub-regional importance as defined in policy FLD.

The proposed 'built development' is all outside the flood plain, with only some footpaths and part of the road located within it, approx. 200m<sup>2</sup>. Due to the previous approval, it would be unreasonable to ask for any changes in this respect.

FLD2 - Protection of Flood Defence and Drainage Infrastructure – The site is affected by undesignated watercourses, according to the blue lines marked "ditch" on the map on the last page of Appendix D in the Flood Risk Assessment (see below). Under 6.32 of the policy a 5m to 10m level maintenance strip is required. This will be conditioned as such.

FLD3 - Development and Surface Water – The drainage system is to be adopted by Northern Ireland Water and, according to the drainage assessment, the 100-year storm water generated will be attenuated contrary to the guidance in Sewers for Adoption NI that states: - Storage over and above the 1 in 30-year event should not be sited within the adoptable system.

The drainage assessment has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100-year event will be contained within the network, when discharging at existing greenfield runoff rate, and

therefore there will be no exceedance flows during this event.

Further assessment of the drainage network will be made by NIW prior to adoption. However, to ensure compliance with Planning Policy Statement 15, DfI Rivers requests that the potential flood risk from exceedance of the network, in the 1 in 100-year event, is managed by way of a condition - 'Prior to the commencement of any of the approved development, the applicant must demonstrate how any out of sewer flooding, emanating from the surface water drainage network agreed under Article 161, in a 1 in 100-year event, will be safely managed so as not to create a flood risk to the development or from the development to elsewhere.

Reason – In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere'.

#### FLD4 - Artificial Modification of watercourses

The Flood Risk Assessment and associated plans show, it is intended to alter an open watercourse by culverting in the south of the site.

Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons.

The original approval was granted in 2011 and PPS15 was introduced in September 2014, so policy in this respect has changed. There is not an automatic right to culvert but in this case, it is being treated as an exception, due to the historical approval on the site and the applicant has received statutory consent to culvert. This will also minimise the risk of flooding on the site, without increasing the risk of flooding elsewhere.

Also, as part of the proposal for the dwellings is for social housing there is a need in the area. This proposal is therefore providing a 'gain', coupled with the previous approval it would again be unreasonable in this instance, that all existing watercourses be diverted as it would prevent development of the site and go against natural justice.

FLD5 - Development in Proximity to Reservoirs – DfI Rivers reservoir inundation maps indicate that this site is in a potential area of inundation emanating from Ballysaggart Lough.

It needs to be demonstrated that the condition, management and maintenance regime of Ballysaggart Lough is appropriate to provide sufficient assurance regarding reservoir safety so as to enable the development to proceed, as require under Policy FLD 5.

A Certificate of Lawfulness was approved in July 2023 for 'Replacement/refurbishment of the existing outlet at Ballysaggart Lough' for MUDC. The proposal allowed for the erection of equipment on the land belonging to and maintained by the Council for the purposes of any function exercised on the land. These works are for a function exercised for the Council as they are to improve the land for the approved leisure function associated with Ballysaggart Lough.



New development will only be permitted within the potential flood inundation area of a 'controlled reservoir' as shown on the Strategic Flood Map if certain factors exist. The site is within a potential flood inundation area, Ballysaggart Lough is the reservoir in question. It is required by the applicant to provide sufficient assurance regarding reservoir safety. The Council are working towards obtaining 'Responsible Manager Status' of Ballysaggart Lough and this process is almost complete. This process has been taking a consideration amount of time and it was agreed with the Service Director of Planning that a condition could be attached to ensure development was not held up due to this delay, whilst ensuring flooding concerns and any risk to life are fully taken into account.

DFI Rivers comments have been taken into account, however Planning Service are the deciding authority and as such PPS15 has been fully considered.

In conclusion, the site has been inactive for a significant period of time, if accepted, the arguments put forward will ensure this overgrown site is utilised for its intended purpose, light industry, as well as meeting a housing need in this area. The site has been a known focal point for anti-social activity in the past and its development will be a 'planning gain' to the surrounding area. This proposal will discourage anti-social behaviour, it will result in environmental benefits including accessibility to open space, new landscaping and provide much needed social housing. No objections have been received from any neighbouring properties. I therefore recommend the proposal be approved with the conditions attached.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

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

The 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. JPC 002 Revision D bearing PSD stamp dated 15/2/24.

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.

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

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

### Condition 3

No development activity, including ground preparation or vegetation clearance, shall take place until a Habitat Management Plan (HMP) has been submitted to and approved in writing by the Planning Authority. The approved HMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved HMP, unless otherwise agreed in writing by the Planning Authority. The HMP shall include the following:

- a) Clear aims and objectives of proposed habitat management/restoration/compensation for Open Mosaic Habitat NI Priority Habitat;
- b) Description of pre-construction, baseline habitat conditions;
- c) Appropriate maps, clearly identifying habitat management areas which should reflect plans as shown on Landscaping Plan Biodiversity Framework (Published to the MU-PP 07/12/2023);
- d) Detailed methodology and prescriptions of habitat management and restoration/compensation measures, including timescales, and with defined criteria for the success of the measures;
- e) Details of the prohibition of habitat damaging activities, including agricultural activities, landscaping maintenance works etc;
- f) Details of the regular monitoring of the effectiveness of habitat management and compensation measures using appropriate methodology (e.g. visual inspections, vegetation quadrats, fixed point photography) in years 1, 2, 3, 4 and 5 post construction;
- g) Details of the production of regular monitoring reports which shall be submitted to the Planning Authority within 6 months of the end of each monitoring year and which shall include details of contingency measures should monitoring reveal unfavourable results.

Reason: To compensate for the loss of and damage to Northern Ireland priority habitats.

### Condition 4

An Acoustic barrier shall be erected within the site as presented on Site Layout Plan PO5 E, dated Sept 2020. The barriers shall be constructed of either masonry or timber panelling (close lapped with no gaps) and shall have a minimum self-weight of 25kg/M2. The barrier shall be permanently retained and maintained.

The industrial units operating times shall be as follows:

08:00 - 18:00 Monday to Friday

08:00 - 15:00 Saturday

No operations on a Sunday

-Audible reversing alarms to HGVs/vehicles on site shall be of the broadband type and not single tone reversing sirens.

#### Construction Noise

"Noise from construction activities should -

not exceed 75 dB LAeq, 1hr between 07.00 hours and 19.00 hours on Monday to Fridays, or 75 dB LAeq, 1hr between 08.00 hours and 13.00 on Saturdays, when measured at any point 1 metre from any façade of any residential accommodation, and not exceed 65 dB LAeq, 1hr between 19.00 hours and 22.00 hours on Monday to Fridays, or 13.00 hours to 22.00 hours on Saturdays when measured at any point 1 metre from any façade of any residential accommodation, and

not be audible between 22.00 hours and 07.00 hours on Monday to Fridays, before 08.00 hours or after 22:00 hours on Saturdays, or at any time on Sundays, at the boundary of any residential accommodation. (As a guide the total level (ambient plus construction) shall not exceed the pre-construction ambient level by more than 1 dB(A). This will not allow substantial noise producing construction activities but other "quiet" activities may be possible). Routine construction and demolition work which is likely to produce noise sufficient to cause annoyance will not normally be permitted between 22.00 hours and 07.00 hours."

Reason: Protection of residential amenity

#### Condition 5

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, agreed under Article 161, in a 1 in 100 year event with an additional allowance for climate change (10%) and urban creep (10%).

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

#### Condition 6

No development hereby permitted shall take place until a 5 metre level maintenance strip is provided along the eastern boundary of the site to be protected from impediments, land raising or future unapproved development.

Reason: To ensure protection from impediments in relation to potential flooding issues.

#### Condition 8

The industrial units hereby approved shall be used only for Class B2 Light Industry and Storage and for no other purpose in Class B2 of the Schedule to the Planning (Use Classes) Order (NI) 1989.

Reason: To prohibit a change to an unacceptable use within this Use Class.

#### Condition 9

All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No 5 rev 02 uploaded on 7 Dec 2023 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

#### Condition 10

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

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

#### Condition 11

No dwelling or apartment hereby approved shall be occupied until the Council agrees in writing that an acceptable Management and Maintenance agreement has been signed and put in place with an appropriate management company, for all areas beyond the plot curtilage as shown on drawing No 5 rev 02 uploaded on 7 Dec 2023. These areas shall be permanently retained as landscape/open space.

Reason: To ensure that open space is provided, maintained and managed in accordance with the Departments Policy Statements, PPS 7 - Quality Residential Environments and PPS8 - Open Space, Sport and Outdoor Recreation and to ensure its retention in perpetuity.

#### Condition 12

The sewerage treatment plant shall be located as per Drawing 20 rev 04 uploaded on 13 Feb 2024 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved. The plant shall be maintained by the developer until such times as it is adopted by NI Water or is no longer necessary to serve the development.

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

**Condition13**

No building shall be occupied until Mid-Ulster District Council has confirmed that measures required to ensure there will be no uncontrollable release of water have been identified and a contract entered into for the implementation of these works.

Reason - To prevent flooding and any risk to human life.

**Case Officer:** Emma McCullagh

**Date:** 20 February 2024

**ANNEX**

<b>Date Valid</b>	22 October 2020
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<b>Date First Advertised</b>	18 December 2023
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<b>Date Last Advertised</b>	3 November 2020
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**Details of Neighbour Notification (all addresses)**

The Owner / Occupier  
5 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
17 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
13 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
58 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier  
31 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
25 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
57 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier  
43 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
3 Cloneen, Dungannon, Tyrone , BT70 1SY  
The Owner / Occupier  
51 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier  
27 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
29 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
35 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
37 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
39 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
41 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
21 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
23 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier  
19 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier

59 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

1 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier

31 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

53 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

33 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

7 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier

49 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

55D, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

9 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier

31 Ballygawley Road, Dungannon, Tyrone, BT70 1EL  
The Owner / Occupier

55C, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

15 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier

7 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

55B, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

9 Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

55A, Ballysaggart Park, Dungannon, Tyrone, BT70 1UJ  
The Owner / Occupier

11 Cloneen, Dungannon, Tyrone, BT70 1SY  
The Owner / Occupier

Willow Grove Care Home 31 Ballygawley Road, Dungannon BT70 1EL

<b>Date of Last Neighbour Notification</b>	7 December 2023
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<b>Date of EIA Determination</b>	19 November 2020
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<b>ES Requested</b>	<events screen>
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<b><u>Planning History</u></b>
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## Summary of Consultee Responses

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
NI Water - Multiple Units West-Substantive: TBCResponseType: FR  
Rivers Agency-Substantive: TBCResponseType: FR  
-Substantive: YResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
NIEA-Substantive: YResponseType: FR  
Northern Ireland Housing Executive - Central Planning-Substantive: TBCResponseType: FR  
FR  
Rivers Agency-488713 final.pdf  
DFI Roads - Enniskillen Office-  
Environmental Health Mid Ulster Council-LA09 2020 1319 F MUD Ballygawley Rd.doc  
NIEA-PRT LA09-2020-1319-F.PDF  
Environmental Health Mid Ulster Council-LA09 2020 1319 F (002).doc  
Rivers Agency-An extension of 30 days is requested for the following reason: - the consultation requires additional assessment from the internal DfI Rivers' modelling unit because the FRA disputes the findings of the flood plain extents affecting the site.  
Rivers Agency-71333 - final.pdf  
Environmental Health Mid Ulster Council-LA09 20 1319 F Ballygawley Rd  
Dungannon.doc  
NIEA-PRT LA09-2020-1319-F.PDF  
NIEA-PRT LA09 2020 1319 F.pdf  
DFI Roads - Enniskillen Office-08-02-2024.docx  
NIEA-PRT LA09 2020 1319 F.pdf  
DFI Roads - Enniskillen Office-Conditions 15-02-2024.docx  
NI Water - Multiple Units West-LA09-2020-1319-F.pdf  
NIEA-PRT LA09-202-1319-F.pdf  
MUDC Environment and Conservation Team-Consulted in error.Consulted in error.  
Environmental Health Mid Ulster Council-LA09 22 1319 MUD Ballygawley Rd.doc  
NIEA-PRT LA09-2020-1319-F.PDF  
Environmental Health Mid Ulster Council-LA09 20 1319 F Ballygawley Rd  
Dungannon.doc  
Environmental Health Mid Ulster Council-LA09 20 1319 F Ballygawley Rd  
Dungannon.doc  
DFI Roads - Enniskillen Office-22-02-2024.docx  
NIEA-PRT LA09 2020 1319 F.pdf  
DFI Roads - Enniskillen Office-06-03-2023.docx  
NIEA-PRT LA09-2020-1319-F.PDF



## Drawing Numbers and Title

Elevations and Floor Plans Plan Ref: 18  
Elevations and Floor Plans Plan Ref: 17  
Elevations and Floor Plans Plan Ref: 16  
Elevations and Floor Plans Plan Ref: 15  
Elevations and Floor Plans Plan Ref: 14  
Elevations and Floor Plans Plan Ref: 13  
Elevations and Floor Plans Plan Ref: 12  
Elevations and Floor Plans Plan Ref: 11  
Elevations and Floor Plans Plan Ref: 10  
Elevations and Floor Plans Plan Ref: 09  
Elevations and Floor Plans Plan Ref: 08  
Elevations and Floor Plans Plan Ref: 07  
Levels and Cross Sections Plan Ref: 06  
Landscaping Plan Plan Ref: 05  
Levels and Cross Sections Plan Ref: 04  
Site Layout or Block Plan Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02  
Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 19/01  
Proposed Plans Plan Ref: 03/02  
Proposed Elevations Plan Ref: 15/01  
Proposed Elevations Plan Ref: 16/01  
Landscape Proposals Plan Ref: 05/01  
Site Layout or Block Plan Plan Ref: 19 Rev 01  
Site Layout or Block Plan Plan Ref: 02 rev 02  
Site Layout or Block Plan Plan Ref: 03 rev 02  
Technical Specification Plan Ref: 20 rev 01  
Cross Sections  
Cross Sections Plan Ref: 22  
Site Layout or Block Plan Plan Ref: 19 rev 02  
Site Layout or Block Plan Plan Ref: 02 rev 03  
Site Layout or Block Plan Plan Ref: 03 rev 03  
Technical Specification Plan Ref: 20 rev 02  
Longitudinal Sections Plan Ref: 21  
Proposed Plans Plan Ref: JPC004 Version: B  
Proposed Plans Plan Ref: JPC005 Version: D  
Proposed Plans Plan Ref: JPC003 Version: D  
Road Access Plan Plan Ref: JPC002 Version: D  
Site Layout or Block Plan Plan Ref: JPC001 Version: E  
Elevations and Floor Plans Plan Ref: 07-01  
Elevations and Floor Plans Plan Ref: 08-01  
Elevations and Floor Plans Plan Ref: 09-01  
Elevations and Floor Plans Plan Ref: 10-01  
Elevations and Floor Plans Plan Ref: 11-01  
Elevations and Floor Plans Plan Ref: 12-01  
Elevations and Floor Plans Plan Ref: 13-01  
Elevations and Floor Plans Plan Ref: 14-01  
Elevations and Floor Plans  
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Elevations and Floor Plans  
Elevations and Floor Plans  
Elevations and Floor Plans

**Notification to Department (if relevant)**

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2021/1293/F	<b>Target Date:</b> 29 October 2021
<b>Proposal:</b> Proposed extension to bar and restaurant including extension of off sales area within existing shop and temporary marquee	<b>Location:</b> 221 Orritor Road, Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mrs Iris Thom 221 Orritor Road Orritor Cookstown BT80 9NB	<b>Agent Name and Address:</b> Henry Marshall Brown 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b> <p>The current application is presented as an approval, however it is being presented at Committee following receipt of 5no. objections.</p> <p>Initially this proposal was for the change of use of existing ancillary space to beer garden area and extension of off sales area within shop. 4no. objections were received in line with this application, with major concerns regarding: loss of residential amenity, excessive noise pollution, increase in traffic volume, and anti-social behaviour. Environmental Health were consulted, and considered that noise from the proposed beer garden was likely to be excessive at nearby residential properties due to the limited separation distances between the position of the beer garden and residential property, and stated if planning permission was granted then further noise complaints are likely and there is a high probability that a statutory nuisance could be substantiated. It was considered the proposal did not comply with the SPPS in that the development, if permitted, could result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise pollution, therefore the agent submitted an amended scheme which has been assessed in this report.</p> <p>Following the submission of the amended scheme, 1no. objection has been received.</p>	

It is important to note, there is a live enforcement case on site, LA09/2023/0106/CA for the unauthorised change of use to beer garden and unauthorised erection of security fence.

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type		Consultee	Response
		Environmental Health Mid Ulster Council	Substantive: TBC
		DFI Roads - Enniskillen Office	Substantive: TBC
		Environmental Health Mid Ulster Council	Substantive: TBC
		Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
		DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
		Environmental Health Mid Ulster Council	Substantive: TBC
		Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
		Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09-21-1293 F 221 Orritor Road Nov 2022.doc
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09-21-1293 F 221 Orritor Road, Cookstown BT80 9NB..doc 030223.doc

Non Consultee	Statutory	Environmental Health Mid Ulster Council	Planning response.pdf
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09-21-1293 F 221 Orritor Road August 2023.doc
Statutory Consultee		DFI Roads - Enniskillen Office	dfi Roads Consultation.docx Response Template.docx
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09.2021.1293.F 27th March 2024.pdf LA09.2021.1293.F 23.1.24.pdf
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
		Environmental Health Mid Ulster Council	
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09-21-1293 F 221 Orritor Road March 2023.doc

#### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	5
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

#### Summary of Issues

The objector's concerns are addressed below:

- Safety concerns for lane between Braeside Bar and No. 6A Drumearn Avenue, increase in the volume of traffic to site, and the noise of traffic – Dfl Roads were consulted, and did not offer an objection.
- Anti-social behaviour, including general litter, broken glass/beer bottles/wine bottles and traffic cones thrown into neighbouring garden at the rear of the house and side of the house - For any anti-social behaviour within the premises, this would be the responsibility of the business owner. For any anti-social behaviour off premises, this would be a policing matter. This is not a material planning consideration.
- Loss of residential amenity – I am content there is sufficient separation distance between the proposed development and nearest properties, and the proposed development would have limited affect of neighbouring residential amenity.
- Noise nuisance – Environmental Health were consulted a number of times on this application, and had major concerns with regards to the previous scheme. However, they offer no objection to the amended scheme, subject to conditions.

## Characteristics of the Site and Area

The site is located at No. 221 Orritor Road, Cookstown, which is within Orritor development limits as per the Cookstown Area Plan 2010. Currently contained within the site is a long established public house (The Braeside Bar) and convenience store. The site is accessed by an entrance point directly onto the Orritor Road, and the eastern portion of the site provides car parking spaces. The surrounding area is characterised by development within the settlement of Orritor, particularly residential development.

## Description of Proposal

This is a full application for proposed extension to bar and restaurant including extension of off sales area within existing shop and temporary marquee. The site is located at No. 221 Orritor Road, Cookstown, BT80 9NB.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

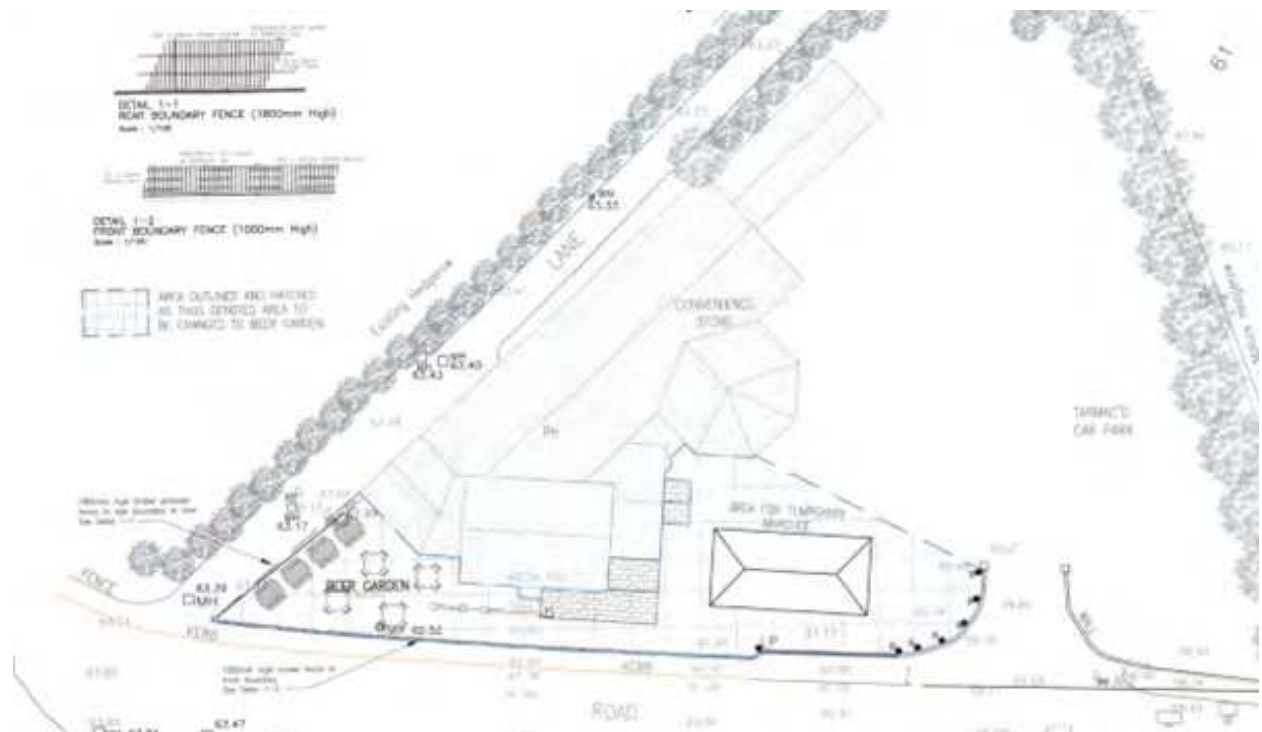
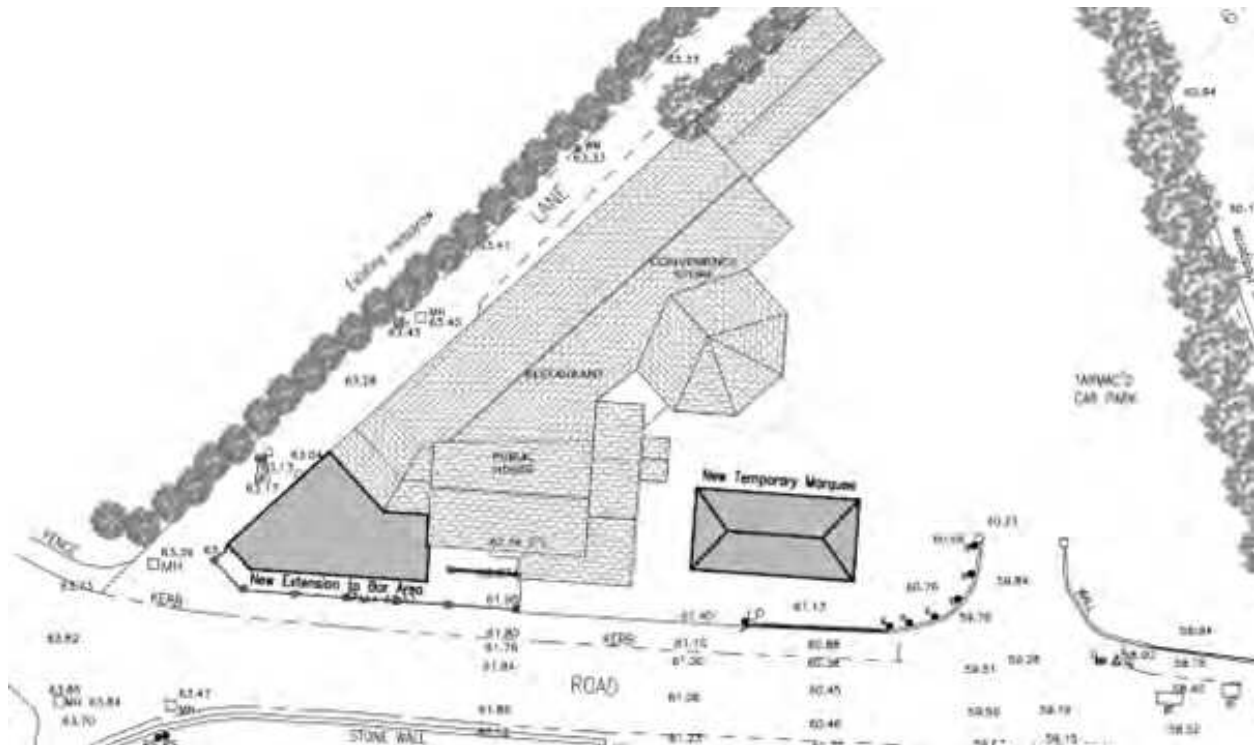


Figure 1 – Original scheme: the change of use of existing ancillary space to beer garden area and extension of off sales area within shop



*Figure 2 – Current scheme (amended): proposed extension to bar and restaurant including extension of off sales area within existing shop and temporary marquee*

Relevant Planning History

LA09/2023/0106/CA – Unauthorised change of use to beer Garden and unauthorised erection of security fence.

I/2013/0234/LDP – Provision of off sales kiosk within the existing supermarket floorspace. Permission granted – 27/08/13.

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

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

Planning Strategy for Rural Northern Ireland (PSRNI)

Cookstown Area Plan 2010

DCAN 4: Restaurants, Cafes and Fast Food Outlets

DCAN 7: Public Houses

The Planning (General Permitted Development) Order (Northern Ireland) 2015

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 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.

### **Strategic Planning Policy Statement (SPPS)**

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 4.11 of the SPPS states "*the planning system has a role to play in minimising potential adverse impacts, such as noise or light pollution on sensitive receptors by means of its influence on the location, layout and design of new development*".

The Planning Authority take their advice from Environmental Health in respect of noise pollution. MUDC Environmental Health independently assess any technical reports submitted by the applicant in support of an application and provide independent advice to inform any planning decision. Following consultation, Environmental Health had significant concerns with regards to noise regarding the original proposal for the change of use of existing ancillary space to beer garden area and extension of off sales area within shop. An amended scheme was submitted by the agent to address these concerns. Environmental Health assessed this amended scheme, and reviewed the Noise impact Assessment from Grainger Acoustics, and have offered no objection to this amended scheme, subject to conditions.

Paragraph 4.12 notes other amenity considerations arising from development, that may have potential health and well-being implications, include design considerations, impacts relating to visual intrusion, general nuisance, loss of light and overshadowing. Adverse environmental impacts associated with development can also include sewerage, drainage, waste management and water quality. I have no concerns regarding loss of light or overshadowing. With regards to design and visual intrusion I am content that there will be no adverse visual impact caused. Environmental Health were consulted on the application with regards to noise to which they have no objection to the amended proposal put forward, subject to conditions.

### **Planning Strategy for Rural Northern Ireland (PSRNI)**

Policy DES 2 requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. This policy involves each proposal being assessed against three main elements:

Land Use: As this proposal is for a proposed extension to an existing bar and restaurant, I am content that it is suitable for this site, and it will not alter the character of the area adversely.

Amenity: In terms of noise pollution, following Environmental Health's consultation response, I am content the proposed development would have limited affect on

neighbouring residential amenity. I have no concerns regarding loss of light, or overshadowing, etc.

Design: The proposed extension will be similar design in that to the exiting building, therefore I am content that the design is appropriate.

Policy DES 2 requires all alterations and extensions to respect the scale, form, detailing and materials from the original building. I am content this proposal complies with Policy DES 2.

#### **DCAN 4 - Restaurants, Cafes and Fast Food Outlets**

DCAN 4 explains the criteria and technical standards which the Department considers when dealing with proposals for restaurants, cafés and fast food outlets. It applies throughout Northern Ireland to development proposals (including new buildings and changes of use) for the sale of food for consumption on the premises or of hot food for consumption off the premises. I am satisfied the proposal is not contrary to the guidance detailed under DCAN 4.

#### **DCAN 7 - Public Houses**

DCAN7 detailed guidance which is gave to intending developers, their professional advisors, and agents. It is designed to provide advice on the planning criteria to be applied when an application for this form of development is being considered. I am satisfied the proposal is not contrary to the guidance detailed under DCAN 7.

#### **The Planning (General Permitted Development) Order (Northern Ireland) 2015**

I consider that the erection of the temporary moveable marquee falls under Part 5 Temporary Buildings and Uses of the GPDO. Under Class B, planning permission is not required for the erection of the temporary marquee for not more than 28 days in total in any calendar year, and a condition has been recommended to ensure this.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

The proposal shall be built as per Drawing No. 03 Rev 1 (uploaded to planning portal 15th Jan 2024).

Reason: To protect amenity of nearby residential properties.

#### Condition 3

There shall be no provision of amplified or live entertainment music at any time within the proposed seating area as depicted on Drawing No. 03 Rev 1 (uploaded to planning portal 15th Jan 2024) so as to avoid causing adverse impact on residential amenity due to noise disturbance.

Reason: To protect amenity of nearby residential properties.

#### Condition 4

External brickwork, glazing and external doors to the proposed seating area shall be capable of providing a sound reduction index of at least 31dB.

Reason: To protect amenity of nearby residential properties.

#### Condition 5

The applicant shall ensure that noise levels associated with the proposal shall not exceed internal levels stipulated below at any 3rd party residential receptor;

- A) not exceed 35dB dB LAeq (1 hour) at any time between 07:00hrs and 23:00hrs within any habitable room, with the windows closed.
- B) not exceed 30 dB LAeq at all other times measured over a five minute period within any proposed bedrooms with the windows closed.
- C) not exceed 45 dB LAMax for any single sound event between 23:00hrs and 07:00hrs within any proposed bedrooms with the windows closed.

Reason: To protect amenity of nearby residential properties.

#### Condition 6

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

Reason: To protect amenity of nearby residential dwellings.

#### Condition 7

Following completion of the noise survey and where noise monitoring demonstrates non-compliance of noise limits stipulated in Condition 5, the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with Condition 5. Any remedial measures required shall be carried out to the satisfaction of the Council within 4 weeks of their approval and shall be permanently maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect amenity of nearby residential dwellings.

Condition 8

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

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

Condition 9

The temporary marquee as depicted on Drawing No. 02 Rev 3 (uploaded to planning portal 23rd Feb 2024) shall be erected for no more than 28 days in any calendar year (ie from 1st Jan to 31 Dec).

Reason: To protect the amenity of nearby residential properties.

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

**Date:** 27 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	3 September 2021
<b>Date First Advertised</b>	4 July 2023
<b>Date Last Advertised</b>	14 September 2021
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 6A Drumearn Avenue, Cookstown, BT80 9JZ The Owner / Occupier 224 Orritor Road, Cookstown, Tyrone, BT80 9NB The Owner / Occupier 220 Orritor Road Cookstown Tyrone BT80 9NB	
<b>Date of Last Neighbour Notification</b>	14 March 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: I/2007/0612/F Proposals: Site for proposed dwelling and garage Decision: PG Decision Date: 22-NOV-07  Ref: I/2003/0015/F Proposals: Proposed dwelling and garage (Change of House type) Decision: PG Decision Date: 24-FEB-03  Ref: I/2002/0128/F Proposals: Dwelling and garage (change of house type) Decision: PG Decision Date: 14-APR-02  Ref: I/1998/0528	

Proposals: Proposed 2 no detached dwellings

Decision: PG

Decision Date:

Ref: I/1979/0241

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/1986/0166

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/1988/0204

Proposals: DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: I/1975/000301

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: I/1988/0362

Proposals: DWELLING

Decision: PG

Decision Date:

Ref: I/1975/0003

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2021/0620/O

Proposals: One set of semi detached 2 storey dwellings

Decision: PG

Decision Date: 12-MAY-22

Ref: I/2009/0295/O

Proposals: Proposed replacement dwelling & garage

Decision: PG

Decision Date: 15-JUL-09

Ref: I/1998/0257

Proposals: Store and Ancillary Offices for Builders Providers

Decision: PG  
Decision Date:

Ref: I/1989/0193  
Proposals: Building for Storage of Agricultural Building Products  
Decision: PG  
Decision Date:

Ref: I/1988/0385  
Proposals: Store for building materials  
Decision: PG  
Decision Date:

Ref: I/2009/0389/F  
Proposals: 2 Storey side extension to dwelling and covered area to front elevation.  
Decision: PG  
Decision Date: 24-AUG-09

Ref: I/2010/0104/F  
Proposals: 2 Storey side extension to dwelling and covered area to front elevation  
Decision: PG  
Decision Date: 27-APR-10

Ref: I/2000/0806/F  
Proposals: Alterations and extension to dwelling  
Decision: PG  
Decision Date: 04-JAN-01

Ref: I/1987/0499  
Proposals: SITE FOR RETAIL AGRICULTURAL STORE AND GAS STORAGE COMPOUND  
Decision: PG  
Decision Date:

Ref: LA09/2015/0350/F  
Proposals: Proposed 16 terrace dwellings in 4 blocks of 4 and 1 detached dwelling and estate roadway.(renewal of planning permission I/2008/0161/F)  
Decision: PG  
Decision Date: 10-DEC-15

Ref: LA09/2020/1147/F  
Proposals: Proposed 16 No. Terrace dwellings in a 4 No. Blocks of 4 & 1 No. detached dwelling & estate roadway.  
( Renewal of planning permission LA09/2015/0350/f).  
Decision:  
Decision Date:

Ref: LA09/2020/1148/F

Proposals: Proposed 16 No. Terrace dwellings in a 4 No. Blocks of 4 & 1 No. detached dwelling & estate roadway. ( Renewal of planning permission LA09/2015/0350/f).

Decision: PG

Decision Date: 25-JUN-21

Ref: I/2006/0118/F

Proposals: Housing Development (23 dwellings).

Decision: PR

Decision Date: 02-APR-07

Ref: I/2008/0161/F

Proposals: Proposed 16 no. terrace dwellings in 4 no. blocks of 4 and 1 no. detached dwelling and estate roadway

Decision: PG

Decision Date: 22-JUL-10

Ref: I/1992/0386

Proposals: Reconstruction of licenced premises

Decision: PG

Decision Date:

Ref: I/2000/0361/A

Proposals: Shop Sign

Decision: CG

Decision Date: 05-JAN-01

Ref: I/1981/0326

Proposals: EXTENSION TO PUBLIC HOUSE

Decision: PG

Decision Date:

Ref: I/2000/0224/F

Proposals: Alterations to public house and conversion of part to shop and post office also provision of new vehicular entrance

Decision: PG

Decision Date: 05-JAN-01

Ref: I/1978/0535

Proposals: EXTENSION TO PUBLIC HOUSE

Decision: PG

Decision Date:

Ref: I/1978/0177

Proposals: EXTENSION TO PUBLIC HOUSE



Decision: PG  
Decision Date:

Ref: LA09/2021/1293/F

Proposals: Change of use of existing external ancillary space to beer garden area and extension of Off Sales area within existing shop.

Decision:  
Decision Date:

Ref: I/2013/0234/LDP

Proposals: Provision of off sales kiosk within the existing supermarket floorspace

Decision: PG  
Decision Date: 27-AUG-13

Ref: I/2012/0409/F

Proposals: Proposed change of use from first floor pool room to restaurant and ground floor extension to provide smoking area and porch. (Retrospective application).

Decision: PG  
Decision Date: 20-FEB-13

Ref: I/2001/0425/F

Proposals: 2 No Detached Dwellings & Domestic Garages

Decision: PG  
Decision Date: 07-AUG-01

Ref: I/2002/0767/F

Proposals: Proposed 2 No. detached dwellings, repositioning 1 No. housetype and repositioning hammer head

Decision: PG  
Decision Date: 15-JAN-03

Ref: I/1981/024002

Proposals: RESIDENTIAL DEVELOPMENT

Decision: PG  
Decision Date:

Ref: I/1981/0240

Proposals: RESIDENTIAL DEVELOPMENT

Decision: PG  
Decision Date:

Ref: I/1974/0314

Proposals: ERECTION OF DWELLING HOUSES

Decision: PG  
Decision Date:

Ref: I/1985/0252  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: I/1974/031401  
Proposals: 2 DWELLINGS  
Decision: PG  
Decision Date:

Ref: I/1981/024001  
Proposals: RESIDENTIAL DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: I/1997/0419  
Proposals: Extension to Dwelling  
Decision: PG  
Decision Date:

Ref: I/1999/0461/F  
Proposals: Offices, toilet and educational classroom for existing fish hatchery  
Decision: PG  
Decision Date: 23-OCT-99

### **Summary of Consultee Responses**

Environmental Health Mid Ulster Council-Substantive: TBC  
DFI Roads - Enniskillen Office-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
DFI Roads - Enniskillen Office-Substantive: YResponseType: FR  
Environmental Health Mid Ulster Council-Substantive: TBC  
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR  
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Environmental Health Mid Ulster Council-LA09-21-1293 F 221 Orritor Road, Cookstown BT80 9NB..doc 030223.doc  
Environmental Health Mid Ulster Council-Planning response.pdf  
Environmental Health Mid Ulster Council-LA09-21-1293 F 221 Orritor Road August 2023.doc  
DFI Roads - Enniskillen Office-dfi Roads Consultation.docxResponse Template.docx  
Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-LA09.2021.1293.F 27th March 2024.pdfLA09.2021.1293.F 23.1.24.pdf  
Environmental Health Mid Ulster Council-

Environmental Health Mid Ulster Council-  
Environmental Health Mid Ulster Council-LA09-21-1293 F 221 Orritor Road March  
2023.doc

**Drawing Numbers and Title**

Proposed Floor Plans Plan Ref: S/S 03  
Existing Elevations Plan Ref: S/S 04  
Site Layout or Block Plan Plan Ref: S/S 02  
Site Location Plan Plan Ref: 01  
Elevations and Floor Plans Plan Ref: 03 REV 1  
Site Layout or Block Plan Plan Ref: 02 REV 3

**Notification to Department (if relevant)**

Not ApplicableNot Applicable

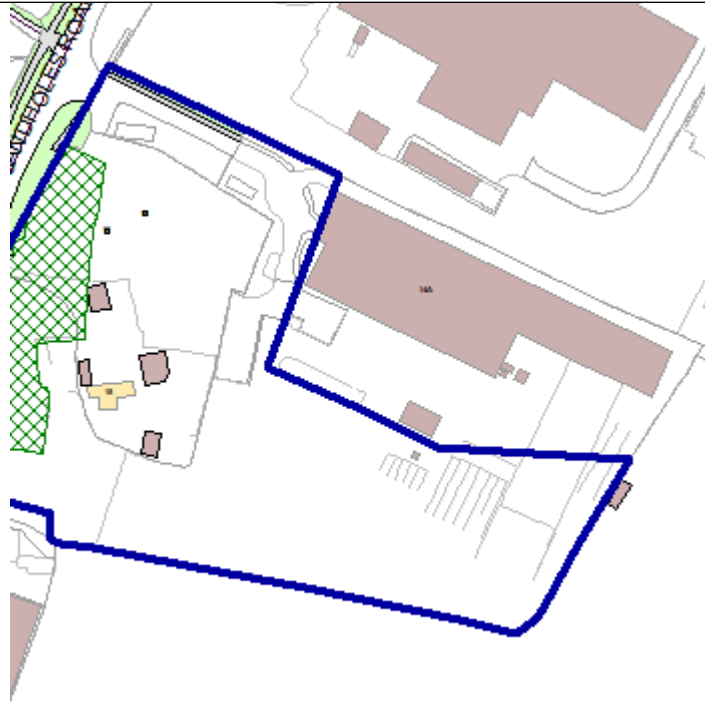


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.4
<b>Application ID:</b> LA09/2022/1135/F	<b>Target Date:</b> 2 February 2023
<b>Proposal:</b> PROPOSED DEVELOPMENT OF BUSINESS PARK TO INCLUDE UP TO 16 BUSINESS UNITS (USE CLASS B1/B2/B3 & B4), ACCESS ARRANGEMENTS FROM SANDHOLES ROAD, LANDSCAPING, CAR PARKING, SERVICING AND ANCILLARY SITE WORKS (Amended description)	<b>Location:</b> 14 Sandholes Road Cookstown BT80 9AR
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Sperrin Trading Services Ltd 14 Sandholes Road Cookstown BT80 9AR	<b>Agent Name and Address:</b> Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	595291final.pdf
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1135-F_Re_consult_response.pdf
Statutory Consultee	NIEA	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-1135 F 14 Sandholes Road Cookstown BT80 9AR.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template.docx
Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1135-F.pdf
Statutory Consultee	NIEA	LA09-2022-1135-F.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template - july23.docx
Statutory Consultee	NIEA	PRT LA09-2022-1135-F.PDF
Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-1135 F 14 Sandholes Road

		Cookstown BT80 9AR.doc 190723.doc
Non Statutory Consultee	MUDC Environment and Conservation Team	LA09.2022.1135.F.pdf
Statutory Consultee	Shared Environmental Services	LA09-2022-1135- F_HRA_Stage_2_AA_2607 2023.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Response Template - Feb 2024.docx
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads response issued 11/07/2023  Gerry
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2022 0525 F LCC Sandholes Rd.doc
Statutory Consultee	NIEA	PRT LA09 2022 1135 F.pdf
Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2022.1135.F.pdf
<b>Representations:</b>		
Letters of Support		0
Letters Non Committal		1
Letters of Objection		0
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
<b>Characteristics of the Site and Area</b>		
<p>The proposed site measures 2.74 hectares with the majority of the site currently covered in hardstanding and is located approx. 3 miles from Cookstown Town Centre.</p> <p>The site is bound to the west, south and east by a mix of mature trees and hedgerows. The site is bound to the north by industrial units. The topography appears relatively flat.</p> <p>The wider surrounding area comprises industrial and warehouse units with CDE Group offices adjacent to the site to the north west. CDE Group Offices. Those units comprise a large building fronting onto Sandholes Road with access provided off Sandholes Road via Kilcronagh Road. There is a large car park associated with this building at the rear.</p> <p>The proposal constitutes Major Development in accordance with The Planning (Development Management) Regulations (Northern Ireland) 2015 as it exceeds the thresholds outlined under category 8 'Business, Industry (Light and General), Storage</p>		

and Distribution' insofar as the development comprises 5,000sqm or more gross floor space and the site exceeds 1 hectare.

Therefore, a Proposal of Application Notice (PAN) (LA09/2021/0782/PAN) was submitted and considered acceptable by the Council.

### **Description of Proposal**

PROPOSED DEVELOPMENT OF BUSINESS PARK TO INCLUDE UP TO 16 BUSINESS UNITS (USE CLASS B1/B2/B3 & B4), ACCESS ARRANGEMENTS FROM SANDHOLES ROAD, LANDSCAPING, CAR PARKING, SERVICING AND ANCILLARY SITE WORKS

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

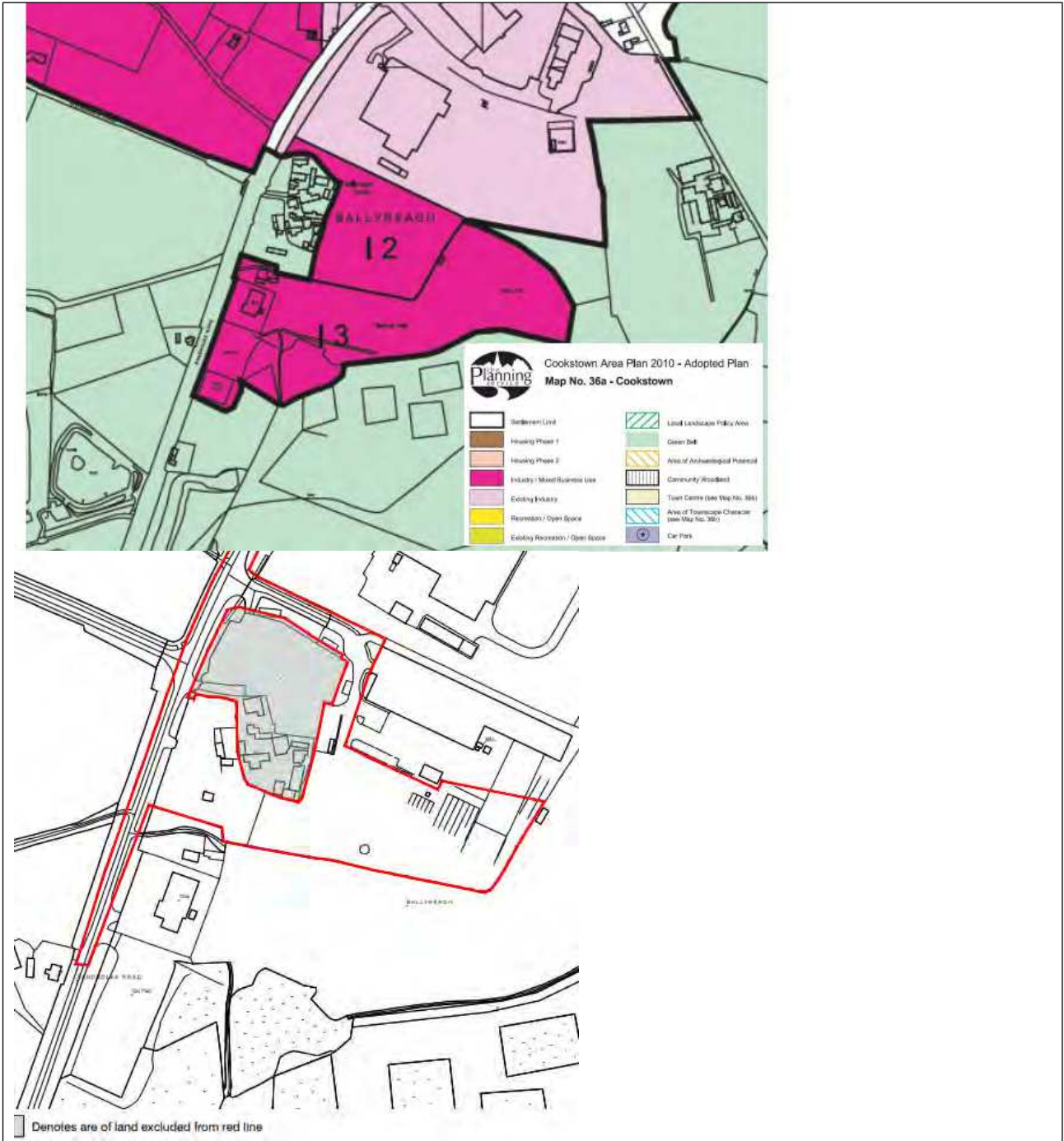
#### **Policy Consideration**

#### **Cookstown Area Plan 2010 (CAP)**

The majority of the site is identified within the CAP 2010 as within the Settlement Development Limit (SDL) of Cookstown and is designated for Industry/Mixed Business Use under I 2 – Land East of Sandholes Road, Ballyreagh. The front portion of the site is located outside the SDL and is not designated.

It states in the CAP under I 2 that this site and surrounding trees enhance the approach to the town from Sandholes Road and define the urban/rural edge. Accordingly, any development on this site should not result in the loss of these trees.

These trees referred to have TPO's attached and MUDC Environment and Conservation team were consulted. Following discussion and amended plans, the layout and configuration of the 16 units and car parking was changed to ensure the treed area at the front of the site would remain. This change also ensures the trees protected by the TPO 1999/0027 are protected and conserved to a high-quality visual amenity and landscape values of the protected trees kept, in the interest of the public. Conditions have been provided to protect and conserve the landscape value of the trees.







### **Mid Ulster District Council Local Cookstown Area Plan (CAP) 2010 Development Plan 2030**

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. On the 28th May 2021 the Council submitted the draft Plan Strategy to The Department for Infrastructure (DfI) for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The SPPS introduced in September 2015 is a material consideration in determining this application. The SPPS encourages a positive approach to appropriate economic development proposals, and proactively support and enable growth generating activities. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction from Policy PED 1, 3 and PED 9 of PPS 4 - Planning and Economic Development therefore existing policy applies.

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

As a small percentage at the front of the site lies outside of the settlement limits this policy must be considered.

There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

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

## **Planning Policy Statement (PPS) 4 - Planning and Economic Development**

### **PED 1- Economic Development in Settlements**

This policy outlines the principles for economic development in settlements so will be relevant in this case for various industrial use classes (B1, B2, B3 and B4). The site mainly lies within the settlement limits with a natural rounding off to include a small portion of land outside the limits, as part of the proposal. To the southern part of the hard standing and the front portion of one of one units lies outside the development limits however it not considered that it this will cause any demonstrable harm to the character of the area (as shown on proposed block plan below).



### **PED2 Economic Development in the Countryside states;**

Proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following policies:

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

This proposal does not fall neatly into any of the above categories.

A small part of the site is located within the Countryside as it is outside the SDL and not part of the zoned industrial land. Policy PED 3 considers economic development

proposals in the countryside to be acceptable provided they are in proportion to the existing buildings and will integrate as part of the overall development, which would be the case in this instance.

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

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

The majority of the site is situated on zoned industrial land and the surrounding lands consist of economic and industrial development as part of Ballyreagh Industrial Estate and Ballyreagh Business Park.

This development would not be out of keeping with the existing development nearby.

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

All units have been placed to avoid any adverse impact on the amenity of neighbouring 18 Sandholes Road. A Noise Impact Assessment (NIA) has been prepared by Irwin Carr which demonstrates that the business units will not have an adverse impact on the amenities of neighbouring properties by way of noise. An Air Quality Impact Assessment has been prepared by Irwin Carr and this report contains a dust assessment which concludes there is negligible to low risk to human health. It is considered that a negligible impact on local air quality conditions will arise from vehicle emissions stemming from development-led traffic movements. Following consideration of the impact assessments and other pertinent matters, it is concluded that the effects associated with the construction and operation of the proposal on local air quality conditions are deemed to be not significant in accordance with the respective best practice assessment methodology guidance documents.

The majority of the units will be well screened from public view due to the presence of farm group buildings between the rear of the site and Sandholes Road, the presence of mature trees along the roadside boundary and units 3-16 being setback approx. 80m from the road frontage.

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

An Archaeological Impact Assessment (AIA) has been prepared which identifies that the application site is not located within an area of high archaeological interest. As such the redevelopment of the site will not have any impact upon archaeological deposits and it is recommended that no further archaeological input is required for this development to proceed.

NIEA have considered the impact of the proposal from a natural heritage point of view

and have no concerns or objections subject to the conditions they have provided.

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

The site is not located within an area of floodplain or surface water flooding. The Drainage Assessment prepared by Flood Risk Consulting provided demonstrates that the proposed development is compliant with PPS15 and will not result in fluvial and/or pluvial water issues.

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

Given the application site is located within a predominantly industrial area, the proposed uses are considered to be acceptable. It was found that operational noise from the proposed development is likely to have a low impact during the daytime period, therefore any noise generated by the proposed development should not adversely impact neighbouring nearest noise sensitive receptors. Full details can be found within the NIA.

Env Health were consulted and have provided a number of detailed conditions to ensure the protection of the amenity of residents. These include restriction of the use classes of the units proposed.

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

The application is accompanied by a Drainage Assessment which demonstrates that surface water drainage can be accommodated appropriately. The site is not located within an area of floodplain or surface water flooding.

The Drainage Assessment provided demonstrates that the proposed development is compliant with PPS15 and will not result in fluvial and/ or pluvial water issues. DFI Rivers were consulted and offer no objection subject to a condition.

**(g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified; and (h) adequate access arrangements, parking and manoeuvring areas are provided;**

Adequate access arrangements are provided as shown in detail within the TAF. Appropriate parking areas are provided for cars and HGV's with HGV turning areas.

The access was amended from the original submission to ensure the retention of TPO'ed trees and to reduce the amount of hardstanding. This reconfiguration has resulted in a more visually attractive layout and DFI are consulted and are content having no objections.

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

The proposal provides the required number of parking spaces including 146 car parking

spaces spread across the site located in close proximity to each unit. 12 HGV parking spaces and 22 cycle spaces are also provided across the site. Pedestrian and cycle access to the site will be significantly improved given the introduction of the ghost island junction along Sandholes Road. Public transport is not considered to be the priority mode of transport to this site but a review of public transport provision in the vicinity of the site shows that there are 4 bus stops located within 1km of the site, the nearest of which is located on Sandholes Road at Old Rectory Court. The bus stops on Sandholes Road serve the Ulsterbus services 91 and 91b providing connections from Cookstown to Pomeroy. All services link directly with Cookstown Bus Station, approximately 3.4km north of the site.

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

The proposed elevations have been designed to be in keeping with surrounding industrial units with the walls having a combination of fair faced concrete blocks and Kingspan Insulated wall cladding in Merlin Grey colour. The roofs will consist of Kingspan insulated roof cladding in Merlin Grey colour. The doors will have PPC aluminium entrance door and screen colour Anthracite grey. The colour of the door surrounds and roller shutters is to be confirmed. Replacement planting has been provided within the front portion of the site that is located within the countryside. The proposal will result in a net gain of trees and will incorporate soft landscaped areas throughout the site to complement the areas of hardstanding.

The proposed elevations have been designed to be in keeping with surrounding industrial units with the walls having a combination of fair faced concrete blocks and Kingspan Insulated wall cladding in Merlin Grey colour. The roofs will consist of Kingspan insulated roof cladding in Merlin Grey colour. The doors will have PPC aluminium entrance door and screen colour Anthracite grey. The colour of the door surrounds and roller shutters will be dark. These are acceptable for this type of development in this location.

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

Appropriate boundary treatment and fencing is proposed to be installed to ensure the site is screened from public view.

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

Gates are proposed to the site entrance, which will be locked outside of business hours to ensure site security.

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

Landscape plan has been submitted and is adequate in terms of integration. Amends plans have been provided to ensure the protected trees on the site remain and have

been conditioned to be protected.

### **Representations**

A letter was received on behalf of the owner of 14 Sandholes Road, they however were not objecting to the proposal and just wished to be kept informed. As Neighbours they were consulted on amended plans during the process and no objections were received.

**In conclusion, after considering all the consultation responses and the assessment against relevant planning policy, I recommended approval with relevant conditions. Whilst a small portion is outside the SDL and B1 use is proposed there are material planning considerations that weight in favour of granting permission and relevant conditions will be added.**

### **Summary of Recommendation:**

Approve is recommended

### Approval Conditions

#### Condition 1

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

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

#### Condition 2

Prior to the commencement of any development the applicant will need to submit an application to NI Water for Wastewater Impact Assessment through Mid Ulster District Council Planning Department to agree an alternative drainage or treatment solution.

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

#### Condition 3

Restricted 'Use Classes' as determined by the Planning (Use Classes) Order (Northern Ireland) 2015 shall apply to the following units:

- o Unit 1 and Unit 2 Class B1: Business
- o Unit 3 - Unit 5 Class B4: Storage or distribution
- o Unit 6 - Unit 15 Class B2: Light Industrial
- o Unit 16 Class B3: General Industrial

Unless otherwise agreed in writing with Mid Ulster District Council

Reason: To protect amenity of nearby residential properties.

Condition 4

The noise level from the proposal shall not exceed the limits outlined in the table below during the permitted hours of operation when measured at a distance of 3 metre from the façade of the appropriate residential property as predicted in the Irwin Carr Consulting letter dated 5th October 2023

Address LAeq1hr

9 Strifehill Road 29.9dB

17 Strifehill Road 30.5dB

21 Sandholes road 27.5dB

18 Sandholes Road 49.6dB

15a Sandholes Road 35.1dB

Reason: To protect amenity of nearby residential properties.

Condition 5

Operational works associated with the hereby permitted development shall only take place between 08:00 hours - 18:30hours Monday to Friday, 08:00-14:00 on Saturdays with no works on Sundays, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To protect amenity of nearby residential properties.

Condition 6

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

Reason: To protect amenity of nearby residential dwellings.

Condition 7

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

Reason: To protect amenity of nearby residential dwellings.

Condition 8

All doors to the proposed units shall be kept closed at all times except for access and

egress.

Reason: To control noise and protect residential amenity.

Condition 9

All fork-lift trucks operating within the development site shall be fitted with white noise (full spectrum) reversing alarms.

Reason: To protect amenity of nearby residential dwellings.

Condition 10

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

Reason: To protect amenity of nearby residential dwellings

Condition 11

In the event that previously unknown contamination is discovered on the site shall cease pending submission and agreement of a written report, detailing the proposed investigation, risk assessment and remediation scheme, by Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency. Development works shall not resume until the approved written report has been fully implemented to the satisfaction of Planners in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency.

Reason: To protect human health

Condition 12

Prior to the commencement of any site works, all required protective fencing and signage will be in situ, as per stamped approved plans 04 Rev 1 dated And shall be implemented in accordance with BS5837:2012: Trees in relations to design, development, and construction - Recommendations. The protective fencing must remain in situ during the construction phase.

Reason: To protect and conserve the high-quality visual amenity and landscape values of the protected trees, TPO/1999/0027, in the interest of the public.

Condition 13

Prior to the commencement of any site works, all proposed recommended tree works, in accordance with the submitted Arboricultural Report prepared by Mr Andrew Boe, on 25.11.2022 and on behalf of Sperrin Trading Services Ltd as per tree survey sheets contained in the report, will be completed.

Reason: To protect and conserve the high-quality visual amenity and landscape values of the protected trees, TPO/1999/0027, in the interest of the public.

Condition 14

No development shall be commenced until a Sewer Adoption Agreement has been



authorised by NI Water to permit a connection to the public sewer in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 and Sewerage Services Act (Northern Ireland) 2016.

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

#### Condition15

Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 must be submitted to the Planning Authority for its consideration and approval.

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

#### Condition16

Prior to works commencing on site, all existing trees shown on drawing L04 Rev 1 as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority.

Reason: to ensure continuity of the biodiversity value afforded by existing trees

#### Condition17

There shall be no external lighting of the site with the exception of the necessary security and emergency lighting located at the front of the unit buildings as shown on drawing L03 Rev 1.

Reason: To minimise the impact of the proposal on bats.

#### Condition18

The existing natural screenings on plan 02 Rev 02 dated 12 Jan 2024 shall be retained, augmented where necessary and let grow to a mature height unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works, and also the proposed planting shown on the same plan shall be carried out within the first available planting season.

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

#### Condition19

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

at the same place, unless Mid Ulster District Council gives its written consent to any variation.

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

**Signature(s):** Emma McCullagh

**Date:** 13 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	7 July 2022
<b>Date First Advertised</b>	2 May 2023
<b>Date Last Advertised</b>	19 July 2022
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 21 Sandholes Road Cookstown BT80 9AR</p> <p>The Owner / Occupier Scott Contracts 20 Sandholes Road Cookstown BT80 9AR</p> <p>The Owner / Occupier 18 Sandholes Road Cookstown BT80 9AR</p> <p>The Owner / Occupier 16 Sandholes Road Cookstown BT80 9AR</p> <p>The Owner / Occupier STS 14A Sandholes Road Cookstown BT80 9AR</p> <p>The Owner / Occupier Emerson 1 Ballyreagh Industrial Estate Cookstown BT80 9DG</p> <p>The Owner / Occupier CDE Global 1 Kilcronagh Buisness Park Cookstown BT80 9HJ</p> <p>The Owner / Occupier Copeland Limited Ballyreagh Industrial Estate Sandholes Road Cookstown BT80 9DG</p>	
<b>Date of Last Neighbour Notification</b>	26 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2012/0405/RM Proposals: Proposed new dwelling and garage on a farm Decision: PG Decision Date: 20-FEB-13</p> <p>Ref: I/2009/0470/O Proposals: Proposed site for dwelling + garage on a farm Decision: PG Decision Date: 17-NOV-09</p>	

Ref: I/2005/0253

Proposals: Storage for Building Plant

Decision: 360

Decision Date: 18-SEP-08

Ref: I/2003/0754/F

Proposals: Construction of a new free standing access platform and stair around the existing kiln stack. The platform will be located approx 150' above the existing ground level

Decision: PG

Decision Date: 08-NOV-03

Ref: I/2002/0265/A

Proposals: Projecting Sign

Decision: CG

Decision Date: 31-JUL-02

Ref: I/2013/0296/F

Proposals: Proposed extension and re-roofing to existing premises

Decision: PG

Decision Date: 29-NOV-13

Ref: I/2000/0674/F

Proposals: Erection of 2 no. Control Buildings, Heat exchanger and de-dusting plant installation

Decision: PG

Decision Date: 29-DEC-00

Ref: I/1975/0294

Proposals: ADDITIONAL ENTRANCE TO WORKS CAR PARK

Decision: PG

Decision Date:

Ref: I/1988/0457

Proposals: New Vehicular Access to Cement Works

Decision: PG

Decision Date:

Ref: I/1974/0021

Proposals: SPOIL DUMP (SITE 1)

Decision: PG

Decision Date:

Ref: I/1975/0295

Proposals: IMPROVEMENTS TO DWELLING HOUSE.

Decision: PG  
Decision Date:

Ref: I/1974/0332  
Proposals: 11KV O/H LINE  
Decision: PG  
Decision Date:

Ref: I/1994/0424  
Proposals: 33/11kv change over (Part 1)  
Decision: PG  
Decision Date:

Ref: I/2002/0629/F  
Proposals: Installation of mobile stone crushing plant  
Decision: PG  
Decision Date: 16-JAN-03

Ref: I/1987/0264  
Proposals: WINNING AND WORKING OF LIMESTONE, SANDSTONE, MUDSTONE  
AND DRIFT OVERBURD  
Decision: PG  
Decision Date:

Ref: LA09/2021/0782/PAN  
Proposals: Proposed development of business park to include serviced industrial sites  
(use classes B2/B3/B4) and 1no. class B3 industrial warehouse to operate as metal  
fabrication/coating and galvanising plant. Development of new right-hand turn access  
from Sandholes Road and all other associated car parking, servicing and site works.  
Decision: PANACC  
Decision Date: 16-AUG-21

Ref: LA09/2017/0265/PAD  
Proposals: Business Park and Industrial Estate with new right turn lane  
Decision: PAD  
Decision Date: 01-JAN-18

Ref: I/2005/1499/Q  
Proposals: Proposed Hot Food Outlet, CTN Outlet, Restaurant, Office, Showroom, Trade  
Centre.  
Decision: 211  
Decision Date: 24-JUL-07

Ref: LA09/2022/0525/F  
Proposals: Development of business park to include serviced industrial sites (use  
Classes B2/B3/B4) & 1 no Class B3 industrial warehouse to operate as metal

fabrication/preparation/coating & galvanising plant. Development of new right-hand turn access provision from Sandholes Road & all other associated car parking, servicing, infrastructure & site works

Decision:

Decision Date:

Ref: I/1993/0186

Proposals: Workshops for Manufacture of Kitchen Products

Decision: PG

Decision Date:

Ref: I/2010/0249/F

Proposals: Proposed roof edge projection and access ladders to flat roof of vehicle inspection area and office block

Decision: PG

Decision Date: 20-JUL-10

Ref: I/1986/0023

Proposals: CAR PARKING AND SECURITY FENCE

Decision: PG

Decision Date:

Ref: I/1985/0370

Proposals: ELECTRICAL GOODS STORE

Decision: PG

Decision Date:

Ref: I/1984/0375

Proposals: PROPOSED ALTERATIONS AND EXTENSION TO ELECTRICAL GOODS SHOP

Decision: PG

Decision Date:

Ref: LA09/2018/0410/F

Proposals: Proposed domestic garage, extension to site curtilage & alterations to existing garage.

Decision: PG

Decision Date: 14-JUN-18

Ref: LA09/2015/1254/A

Proposals: Advertisement freestanding

Decision: CG

Decision Date: 21-MAR-16

Ref: I/2007/0157/F

Proposals: Proposed extension to front of dwelling.

Decision: PG  
Decision Date: 10-MAY-07

Ref: I/1989/0228  
Proposals: Proposed Bottling Plant  
Decision: PG  
Decision Date:

Ref: I/1991/0116  
Proposals: Boiler room and chimney  
Decision: PG  
Decision Date:

Ref: I/1996/0242  
Proposals: Proposed mezzanine floor to provide office accommodation  
Decision: PG  
Decision Date:

Ref: I/1989/0440  
Proposals: Extension to Bottling Plant  
Decision: PG  
Decision Date:

Ref: I/2004/0869/F  
Proposals: Storage facility  
Decision: PG  
Decision Date: 30-OCT-04

Ref: I/2002/0179/F  
Proposals: Erection of two no. portal frame buildings to be used for light industrial purposes.  
Decision: PG  
Decision Date: 16-JUL-02

Ref: I/2003/0377/F  
Proposals: Amendment to layout of Unit A, approved under I/2002/0179, to provide a 1st floor showroom.  
Decision: PG  
Decision Date: 11-JUN-03

Ref: I/1982/021001  
Proposals: MACHINE STORE AND BUNGALOW  
Decision: PG  
Decision Date:

Ref: I/1980/0378

Proposals: SITE FOR DWELLING

Decision: PR

Decision Date:

Ref: I/1980/0194

Proposals: STORAGE DEPOT

Decision: PR

Decision Date:

Ref: I/1982/0210

Proposals: ERECTION OF DWELLING AND MACHINE STORE

Decision: PG

Decision Date:

Ref: I/1980/0081

Proposals: PROPOSED STORE

Decision: PR

Decision Date:

Ref: I/1979/0050

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/1994/0439

Proposals: Electricity System Improvement (Part 5)

Decision: PG

Decision Date:

Ref: LA09/2017/0066/NMC

Proposals: Non material change - LA09/2015/0492/RM

Decision: CR

Decision Date: 03-MAR-17

Ref: I/2011/0335/O

Proposals: Proposed site of dwelling and garage on the farm in an infill gap

Decision: PG

Decision Date: 14-DEC-12

Ref: LA09/2015/0492/RM

Proposals: Proposed change of house type to previously approved planning reference  
LA09/2015/0492/RM

Decision: PG

Decision Date: 16-SEP-15

Ref: LA09/2017/0234/F



Proposals: Proposed change of house type to previously approved Planning ref no:  
LA09/2015/0492/RM  
Decision: PG  
Decision Date: 07-APR-17

Ref: I/2011/0313/O  
Proposals: Proposed site of dwelling and garage on the farm in an infill gap.  
Decision:  
Decision Date:

Ref: I/1989/0408  
Proposals: Brick Making Plant and Car Park  
Decision: PR  
Decision Date:

Ref: I/1989/0116  
Proposals: Proposed Brick Making Plant and Associated Car Parking  
Decision: PR  
Decision Date:

Ref: I/2014/0108/PREAPP  
Proposals: Proposed Centralised Anaerobic Digestion  
Decision: EOLI  
Decision Date: 19-MAY-15

Ref: I/1994/0057  
Proposals: New Store and 2 No. Silos  
Decision: PG  
Decision Date:

Ref: I/1988/0419  
Proposals: Erection of Gypsum Storage Building and Associated  
Conveyor  
Decision: PG  
Decision Date:

Ref: I/1988/0179  
Proposals: PALLETISER BUILDING  
Decision: PG  
Decision Date:

Ref: I/2013/0069/F  
Proposals: Proposed extension to existing packing facility  
Decision: PG  
Decision Date: 23-APR-13

Ref: I/2012/0110/F

Proposals: Proposed extension to existing packing facility

Decision: PG

Decision Date: 29-JUN-12

Ref: I/1976/0219

Proposals: ERECTION OF SECURITY GATEHOUSE

Decision: PG

Decision Date:

Ref: I/1996/0308

Proposals: Bulk fuel oil storage (approx.250 metres cubed)

Standby and start-up fuel for cement kiln

Decision: PG

Decision Date:

Ref: I/1989/0240

Proposals: 11KV Rural Spur

Decision: PG

Decision Date:

Ref: LA09/2019/1277/O

Proposals: Erection of dwelling and domestic garage in gap site under CTY 8 of PPS 21

Decision: PG

Decision Date: 04-DEC-19

Ref: I/1994/0263

Proposals: Roadside Sign

Decision: PG

Decision Date:

Ref: I/1974/0224

Proposals: CAR PARK

Decision: PG

Decision Date:

Ref: LA09/2021/1734/PAN

Proposals: Proposed development of business park to include up to 16 business units (use class likely B1/B2/B3& B4), access arrangements (provision of right hand turn lane from sandholes road, landscaping, car parking, servicing and ancillary site works.

Decision: PANACC

Decision Date: 10-FEB-22

Ref: I/2003/0462/A41

Proposals: Alterations

Decision: 205

Decision Date: 09-JUL-03

Ref: I/1992/0188

Proposals: Extension to Social Club

Decision: PG

Decision Date:

Ref: LA09/2016/0584/F

Proposals: Proposed extension to rear of building to create additional storage space external covered area

Decision: PG

Decision Date: 12-AUG-16

Ref: I/2002/0378/F

Proposals: Change of use from social/recreational use to warehouse/light industrial use and minor alteration to front elevation

Decision: PG

Decision Date: 30-OCT-02

Ref: I/2000/0093

Proposals: Site for entrance road to industrial estate.

Decision:

Decision Date:

Ref: I/2006/0936/F

Proposals: Two Manufacturing and Storage Units and Associated Site Works

Decision: PG

Decision Date: 02-JUN-09

Ref: I/2004/1242/F

Proposals: Modifications to existing road layout to provide right turn access

Decision: PG

Decision Date: 15-DEC-04

Ref: LA09/2019/1140/F

Proposals: Proposed garage - to replace a number of garages

Decision: PG

Decision Date: 23-OCT-19

Ref: LA09/2017/0240/F

Proposals: Erection of workshop and offices for the repair and paint spraying of vehicles car wash facility, staff/visitor car parking, short term storage of vehicles awaiting collection, 2m high security fence and entrance gates and associated site works (Relocation of existing business from Chapel Street, Cookstown)

Decision: PG

Decision Date: 07-JUN-18

Ref: LA09/2016/1272/PAD

Proposals: Erection of workshop and offices with site works forming carparking and short term storage of vehicles awaiting collection

Decision: PAD

Decision Date: 01-JAN-17

Ref: I/2004/1356/O

Proposals: Demolition of existing outhouses and sheds and replaced with a new workshop for the repair and maintenance of motor vehicles

Decision: PG

Decision Date: 07-NOV-05

Ref: I/1989/0381

Proposals: Bungalow

Decision: PG

Decision Date:

Ref: I/1997/4005

Proposals: Proposed piggeries

Decision: PDNOAP

Decision Date:

Ref: I/2000/0215/F

Proposals: Workshop and associated offices

Decision: PG

Decision Date: 20-DEC-04

Ref: I/1989/0184

Proposals: Site for dwelling

Decision: PG

Decision Date:

Ref: I/1995/0029

Proposals: Site for Dwelling

Decision: PR

Decision Date:

Ref: I/2005/0553/F

Proposals: Construct footpath & cycle path along Sandholes Road, Cookstown

Decision: PG

Decision Date: 21-JUN-05

Ref: I/1998/0181

Proposals: Workshop extension (amended proposal)

Decision: PG

Decision Date:

Ref: I/1997/0246

Proposals: Extension to Factory

Decision: PG

Decision Date:

Ref: I/2000/0552/F

Proposals: Extension to existing workshop to provide new reception area.

Decision: PG

Decision Date: 26-SEP-00

Ref: I/1988/0456

Proposals: Retirement Bungalow

Decision: PR

Decision Date:

Ref: LA09/2020/1558/F

Proposals: Proposed extension to existing workshop.

Decision: PG

Decision Date: 02-JUL-21

Ref: I/2001/0832/F

Proposals: Proposed Wood Waste System for an Existing Industrial Unit

Decision: PG

Decision Date: 21-JUN-02

Ref: I/2008/0432/F

Proposals: Extension to existing manufacturing workshop

Decision: PG

Decision Date: 16-FEB-09

Ref: I/1982/0378

Proposals: BUILDERS SUPPLIERS PREMISES

Decision: PG

Decision Date:

Ref: I/1996/0206

Proposals: Extension to workshop

Decision: PG

Decision Date:

Ref: I/1986/0007

Proposals: BUILDERS' SUPPLIES PREMISES

Decision: PG

Decision Date:

Ref: LA09/2016/1533/LDP

Proposals: The proposed installation of a 450.84 kw Solar PV installation using non-penetrative mounting system. All works will take place on the roofs and inside the three buildings, this includes the installation of the mounting system and array and internal and external wiring

Decision: PG

Decision Date: 17-JAN-17

Ref: I/1995/6102

Proposals: Possible Sites Sandholes Road Ballyreagh Cookstown

Decision: QL

Decision Date:

Ref: LA09/2017/1518/PAN

Proposals: Construction of a new Facility for the assembly of wet processing equipment

Decision: PANACC

Decision Date: 11-MAR-19

Ref: I/1992/0160

Proposals: 11 KV O/H Line

Decision: PG

Decision Date:

Ref: I/1994/0298

Proposals: Industrial Estate for I.D.B

Decision: PG

Decision Date: 15-FEB-95

Ref: I/2004/1085/F

Proposals: Proposed concrete manufacturing factory, including ancillary staff area, offices & site works

Decision: PG

Decision Date: 15-DEC-04

Ref: I/1996/0474

Proposals: Provision of additional access heads, erection of sub-station including access to same and associated works

Decision: PG

Decision Date: 16-JAN-97

Ref: I/1990/0057

Proposals: Retirement Bungalow

Decision: PG

Decision Date:

Ref: I/1990/0057B  
Proposals: Bungalow & Garage  
Decision: PG  
Decision Date:

Ref: I/1977/0060  
Proposals: REPLACEMENT FARMHOUSE  
Decision: PG  
Decision Date:

Ref: I/2007/0900/F  
Proposals: Proposed Manufacturing Unit  
Decision:  
Decision Date:

Ref: I/1995/0338  
Proposals: Laying out of Lands for Industrial Plots, Construction of Service Road and Associated Services  
Decision: PG  
Decision Date: 23-JUL-96

Ref: I/2013/0168/F  
Proposals: Reduction and reconfiguration of previously approved factory and offices (I/2012/0121/F), including the fit out of first floor to provide offices, kitchen and storage. Revised reduced parking layout, including alterations to HGV parking and internal movement pattern. Repositioning of storage areas and oil tanks.  
Decision: PG  
Decision Date: 29-AUG-13

Ref: I/2012/0121/F  
Proposals: New factory unit and the re-development of redundant turning head to provide access and parking facilities  
Decision: PG  
Decision Date: 18-OCT-12

Ref: LA09/2022/0544/PAN  
Proposals: Proposed extension of works to the existing industrial building (Emerson/Copeland facility) and will include new assembly/work shop area, paintline, offices and extension of car parks and associated works  
Decision: PANACC  
Decision Date:

Ref: I/2009/0429  
Proposals: The relocation of the existing internal waste recycle area to a new external waste recycle area, the raising of the floor in the existing waste recycle area with

associated elevational changes and the erection of a new 60000 litre oil storage facility with associated bund wall at the Copeland Factory, Ballyreagh Industrial Estate, Sandholes Road, Cookstown.

Decision: 461

Decision Date:

Ref: I/1996/0449

Proposals: Site for Factory Unit

Decision: PG

Decision Date:

Ref: I/2010/0297/F

Proposals: Retention of new waste storage building and bunded oil storage facility. Also retention of alterations to existing building to include raised floor levels and storage area at the Copeland Factory, Cookstown

Decision: PG

Decision Date: 26-JAN-11

Ref: I/2007/0901/F

Proposals: Proposed extension and alterations to existing scroll compressor manufacturing facility.

Decision: PG

Decision Date: 20-AUG-08

Ref: I/2014/0244/F

Proposals: Proposed extension and alterations to existing Scroll Compressor manufacturing facility

Decision: PG

Decision Date: 25-NOV-14

Ref: I/2010/0270/F

Proposals: Provision of 4 no. sets of ribbon windows to the front, side and rear elevation to Copeland plant at Ballyreagh ind. Estate Cookstown

Decision: PG

Decision Date: 29-JUL-10

Ref: I/2007/0428/F

Proposals: Extension of existing access road to serve additional development lands; provision of foul, storm and road drainage systems.

Decision: PG

Decision Date: 18-FEB-08

Ref: I/2007/0318/F

Proposals: New Factory, including offices and car parking spaces.

Decision: PG

Decision Date: 18-DEC-07



Ref: I/2009/0142/F

Proposals: Retention of change of use for unit 1 from light industrial to office accommodation

Decision: PG

Decision Date: 27-APR-09

Ref: I/1998/0165

Proposals: Erection of Industrial Units And Ancillary Office Accommodation

Decision: PG

Decision Date:

Ref: I/2008/0516/F

Proposals: Change of use from ancillary factory storage to ancillary office use, including internal alterations & extension to factory.

Decision: PG

Decision Date: 27-APR-09

Ref: I/2002/0018/F

Proposals: Extension to workshop for the manufacture of steel lintel products and storage of same.

Decision: PG

Decision Date: 29-MAR-02

Ref: I/1997/0339

Proposals: Workshop and offices

Decision: PG

Decision Date:

Ref: I/2013/0246/F

Proposals: Demolition of existing dwelling/out buildings and the construction of 10 no semi detached, 2 storey, 3 bedroom dwellings (20 no units) plus 2 detached, 2 storey, 2 bedroom apartments (4 units). 24 new starter units.

Decision: PR

Decision Date: 10-JUL-18

Ref: I/1975/0393

Proposals: ERECTION OF DWELLING

Decision: PR

Decision Date:

Ref: I/2004/0379/O

Proposals: Site for dwelling and garage

Decision: PG

Decision Date: 14-JUN-04

Ref: LA09/2018/0227/F

Proposals: New underground gas transmission pipeline (intermediate pressure) approximately 3.5 Km in length both in road and in verge with associated temporary site works, including open cut excavation and horizontal directional drilling for pipe installation

Decision:

Decision Date:

Ref: I/2002/0492/F

Proposals: Retention of Existing Workshop for the Manufacture and/or Storage of Timber Mouldings (Re-Advertisement)

Decision: PG

Decision Date: 10-OCT-02

Ref: I/2012/0350/F

Proposals: Extension to existing workshop for manufacture of kitchen and bedroom doors, moulding, fittings and accessories

Decision: PG

Decision Date: 04-DEC-12

Ref: I/2005/0609/F

Proposals: Substitution to previously approved planning application I/2000/0215/F workshop and associated offices to include an additional 820 sq m of floor area to workshop and associated offices and an increase of ridge height from 6.2m to 9.5m. (Amended plans)

Decision: PG

Decision Date: 10-JAN-06

Ref: I/2004/0191/F

Proposals: Alterations and extension to existing workshop & associated car parking & retention of existing lean-to extension. Erection of new boundary fence & provision of a temporary access for construction traffic and the provision of external storage areas for articles awaiting collection.

Decision: PG

Decision Date: 16-SEP-04

Ref: I/2014/0107/F

Proposals: Retention of extension to existing workshop for welding/fabricating machine components

Decision: PG

Decision Date: 25-JUL-14

Ref: I/2006/0542/F

Proposals: New workshop for relocation of existing laser & press machines. Extend existing concrete yard, relocate carparking & extend boundary fence (2.40m high security fence).

Decision: PG  
Decision Date: 16-OCT-06

Ref: I/1998/0215  
Proposals: Erection of industrial workshop  
Decision: PG  
Decision Date:

Ref: I/2000/0448/F  
Proposals: Extension to workshop  
Decision: PG  
Decision Date: 07-NOV-00

Ref: I/2007/0315/F  
Proposals: Extension to engineering workshop  
Decision: PG  
Decision Date: 23-JUL-07

Ref: I/2006/0780/F  
Proposals: Extension to engineering workshop  
Decision: PG  
Decision Date: 27-FEB-07

Ref: I/1999/0475/F  
Proposals: Workshop  
Decision: PG  
Decision Date: 24-MAY-00

Ref: I/1997/0368  
Proposals: Workshop Units  
Decision: PG  
Decision Date:

Ref: I/1999/0627/F  
Proposals: Workshop units  
Decision: PG  
Decision Date: 24-FEB-00

Ref: I/2003/1169/Q  
Proposals: Development for Industrial Complex  
Decision: 211  
Decision Date: 22-OCT-04

Ref: I/2004/1101/O  
Proposals: Development of land for industrial use.  
Decision: PG

Decision Date: 29-JUN-05

Ref: I/2009/0207/F

Proposals: Proposed amendments to road layout from turning circle, as approved under previous application ref no I/2004/1190/F, to round-a-bout with junctions off

Decision: PG

Decision Date: 22-SEP-09

Ref: LA09/2019/0566/F

Proposals: Proposed provision of 3no. units (2no. B2: Light Industrial and 1no. B4: Storage and distribution all with associated B1: Offices) Landscaping and vehicular parking.

Decision: PG

Decision Date: 16-OCT-19

Ref: LA09/2016/1250/F

Proposals: The proposal includes the provision of offices, warehousing/distribution and facilities for the storage, maintenance and repair of hire portacabins and other plant and equipment

Decision: PG

Decision Date: 07-FEB-17

Ref: I/2007/0625/RM

Proposals: Proposed 2 storey industrial workshop, ancillary offices and ancillary siteworks including landscaping and carparking.

Decision: PG

Decision Date: 30-JAN-08

Ref: LA09/2022/0612/F

Proposals: Erection of 32 business/storage units and required car parking and commercial spaces with all associated site works

Decision:

Decision Date:

Ref: I/2008/0686/F

Proposals: Proposed 2 no light industrial units to be sub-divided (units C3-C14) with ancillary offices and ancillary works including landscaping and carparking.

Decision: PG

Decision Date: 22-JAN-09

Ref: LA09/2021/1712/PAD

Proposals: Proposed mixed use development comprising of light industrial, small business units with associated car/lorry parking and landscaping.

Decision:

Decision Date:

Ref: LA09/2017/0705/F

Proposals: Proposed new vehicular entrance, entrance gates, boundary fence and additional car parking to the rear of existing premises

Decision: PG

Decision Date: 05-SEP-17

Ref: LA09/2022/0467/PAN

Proposals: Mixed use development comprising of light industrial, small business units with associated car/lorry parking & landscaping

Decision: PANACC

Decision Date: 28-APR-22

Ref: LA09/2021/0190/F

Proposals: Proposed fabrication and manufacturing of steel and timber portable buildings and all associated site works

Decision: PG

Decision Date: 11-NOV-21

Ref: LA09/2022/0127/F

Proposals: Proposed fabrication and manufacturing workshop and all associated site works

Decision:

Decision Date:

Ref: I/2013/0198/F

Proposals: Extension to existing building (warehouse and offices)

Decision: PG

Decision Date: 22-OCT-13

Ref: I/1988/0551

Proposals: Replacement Farm Dwelling

Decision: PG

Decision Date:

Ref: I/2013/0177/F

Proposals: Extension to existing building (warehouse and offices)

Decision:

Decision Date:

Ref: I/2003/0975/F

Proposals: Erection of portal frame building for office accommodation and manufacturing of light industrial goods

Decision: PG

Decision Date: 16-FEB-04

Ref: LA09/2021/1211/F

Proposals: Propose Warehouse with ancillary offices and display area and associated siteworks

Decision:

Decision Date:

Ref: I/2003/1030/F

Proposals: Retention of change of use to create a traveller's stopping site (amended plans)

Decision:

Decision Date:

Ref: LA09/2016/1772/LDE

Proposals: Retention of ancillary storage yard and 2 no. buildings associated with Scott Contracts Ltd at 20 Sandholes Road, Cookstown

Decision: PG

Decision Date: 16-MAR-17

Ref: LA09/2018/1304/F

Proposals: Proposed Covered storage shed.

Decision: PG

Decision Date: 05-MAR-19

Ref: LA09/2017/0996/PAD

Proposals: Proposed new farmers market to include new market hall building with sales ring, offices, associated facilities and parking car/ lorries within site

Decision:

Decision Date:

Ref: LA09/2020/0850/F

Proposals: Proposed agri food processing unit housed within a portal framed building with weighbridge, car parking, HGV turning and parking, treatment plant and concrete yard with gates entrance

Decision:

Decision Date:

Ref: I/2004/1190/F

Proposals: New access (service road) and earthworks and land levelling to facilitate the development of industrial land (amended plans)

Decision: PG

Decision Date: 29-JUN-05

Ref: LA09/2017/0912/PAD

Proposals: Extension to Industrial Lands

Decision: PAD

Decision Date: 01-JAN-18

Ref: I/2005/0959/F

Proposals: Proposed 2 no. light industrial units to be further sub-divided into 6 separate internal units, with combined mezzanine floors and provision of car parking, new service road access inclusive of site works and landscaping.

Decision: PG

Decision Date: 25-SEP-06

Ref: LA09/2018/1371/NMC

Proposals: Reduction in verge width from 3m to 1m adjacent to main carriageway on one side

Decision: CG

Decision Date: 24-OCT-18

Ref: I/2006/1227/RM

Proposals: Proposed 1830 sq/m Industrial unit to be sub-divided into 5 no. units and 2 no. Storage Units to be sub-divided into 8 units with carparking and associated siteworks, including carparking.

Decision: PG

Decision Date: 28-AUG-07

Ref: LA09/2016/0425/PAN

Proposals: The proposal includes the provision of new 2 storey Headquarters Office Building for CDE Global Ltd. including associated landscaping and vehicular parking

Decision: PANACC

Decision Date: 27-JUL-16

Ref: LA09/2019/0233/A

Proposals: Ground fixed company logo featuring individual letters C, D, E on white plinth

Decision: CG

Decision Date: 28-MAY-19

Ref: LA09/2016/0955/F

Proposals: The proposal includes the provision of new 2 storey Headquarters Office Building for CDE Global Ltd associated landscaping and vehicular parking

Decision: PG

Decision Date: 07-DEC-16

Ref: LA09/2017/1091/F

Proposals: Revised application for the alteration and extension of a previously approved building, reconfigured access point and additional parking

Decision: PG

Decision Date: 27-MAR-18

Ref: LA09/2018/0520/F

Proposals:

Provision of a single storey research and development facility with associated office and

welfare accommodation for CDE Global Ltd. Using a previously approved access point to a public road.

Decision: PG

Decision Date: 23-DEC-19

Ref: I/2008/0095/F

Proposals: Single storey vehicle maintenance workshop/store

Decision: PG

Decision Date: 19-AUG-08

Ref: I/1979/054101

Proposals: ERECTION OF ONE NON-SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: I/1979/0541

Proposals: NEW RESIDENCE

Decision: PG

Decision Date:

Ref: I/2007/0629/A

Proposals: Freestanding Waymarking Signage.

Decision: CG

Decision Date: 22-NOV-07

Ref: I/1987/0263

Proposals: RETIREMENT FARM BUNGALOW

Decision: PG

Decision Date:

Ref: I/2006/0856/F

Proposals: Day Care Nursery.

Decision: PR

Decision Date: 26-JUN-07

Ref: LA09/2021/0170/F

Proposals: Change of use from B1:Business, B2:Storage & Distribution to C3:Residential institutions, D1:Community & Cultural Uses to accommodate training facility.

Decision: PG

Decision Date: 13-APR-21

Ref: LA09/2018/1119/F

Proposals: Proposed Provision of 10 No. Units (Mix of B1: Business, B2 Light Industrial and B4: Storage and Distribution) including associated landscaping and vehicular parking

Decision: PG

Decision Date: 03-APR-19



Ref: LA09/2019/0766/F  
Proposals: Erection of cafe  
Decision: PG  
Decision Date: 04-JUN-20

Ref: LA09/2017/0791/F  
Proposals: Part change of use of commercial unit to include ancillary coffee bar area  
Decision: PG  
Decision Date: 18-SEP-17

Ref: LA09/2019/0537/F  
Proposals: Change of use from existing storage area (B4 Storage and Distribution) to create first floor office accommodation (B1 Business Use) to be used in association with Country Stoves, new entrance and stairwell to serve offices  
Decision: PG  
Decision Date: 05-AUG-19

Ref: I/2007/0052/F  
Proposals: Proposed 2 storey high technology office building and ancillary siteworks inc. Landscaping and carparking.  
Decision: PG  
Decision Date: 26-JUN-07

Ref: I/2007/0611/RM  
Proposals: Proposed light industrial workshop inc. ancillary offices at ground and mezzanine level, landscaping, car parking and associated site works (Amended plans).  
Decision: PG  
Decision Date: 22-APR-08

Ref: LA09/2017/1264/F  
Proposals: The Proposal includes the retention of Warehouse Storage extension and retention of extended yard/site to approved offices. Warehousing/distribution and facilities for storage, maintenance and repair of hire portacabins and other plant and equipment, approved under LA09/2016/1250/F  
Decision: PG  
Decision Date: 15-MAY-18

Ref: I/2006/0806/F  
Proposals: Proposed light industrial workshop inc. ancillary offices at ground and mezzanine level, landscaping, car parking and associated siteworks.  
Decision: PG  
Decision Date: 16-JAN-07

Ref: I/1973/0034  
Proposals: DEVELOPMENT OF LANDS (PRIVATE RESIDENTIAL)

Decision: PR  
Decision Date:

Ref: LA09/2016/1357/F

Proposals: Proposed Combined Heat and Power (CHP) plant and associated underground pipeline connected to operational Anaerobic Digestion Plant approved under LA09/2015/0696/F (Noise Impact Assessment)

Decision: PG  
Decision Date: 12-JAN-17

Ref: LA09/2017/0376/DC

Proposals: Discharge of Condition No.4 within Planning Ref, LA09/2016/1357/F

Decision: AL  
Decision Date: 07-APR-17

Ref: LA09/2022/1199/F

Proposals: Proposed Overspill Carpark and Associated Access (accessing onto Strifehill Road)

Decision:  
Decision Date:

Ref: LA09/2022/1135/F

Proposals: PROPOSED DEVELOPMENT OF BUSINESS PARK TO INCLUDE UP TO 1 BUSINESS UNITS (USE CLASS B1/B2/B3 & B4), ACCESS ARRANGEMENTS (PROVISION OF RIGHT HAND TURN LANE) FROM SANDHOLES ROAD, LANDSCAPING, CAR PARKING, SERVICING AND ANCILLARY SITE WORKS

Decision:  
Decision Date:

Ref: LA09/2022/1131/F

Proposals: Proposed farm diversification scheme to include farm shop, milk vending machine and associated ancillary works.

Decision:  
Decision Date:

Ref: LA09/2018/0059/PAN

Proposals: Proposed extension to existing Industrial Business Park

Decision: PANACC  
Decision Date: 11-JUN-18

Ref: LA09/2018/1361/O

Proposals: Proposed extension to existing industrial business park

Decision: PG  
Decision Date: 09-JUL-20

Ref: I/2002/0834/F

Proposals: Construction of a bund enclosure for the future installation of 2 No. 150 tonne re-cycled liquid fuel (RLF) storage tanks with associated pump house and control room buildings, concrete discharge area and nitrogen storage tank. Initially a temporary 90 tonne tank will be installed for the trial fuel burn.

Decision: PG

Decision Date: 19-JUN-03

Ref: I/1980/002901

Proposals: REPLACEMENT DWELLING

Decision: PG

Decision Date:

Ref: I/1980/0029

Proposals: ERECTION OF NEW BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2021/0006/F

Proposals: Proposed roadside hot food sales and ancillary development (farm diversification Scheme)

Decision: PG

Decision Date: 10-JUN-21

Ref: I/1991/0160

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: I/1973/0029

Proposals: DEVELOPMENT FOR PRIVATE HOUSING

Decision: PR

Decision Date:

Ref: I/1974/0142

Proposals: PRIVATE HOUSING DEVELOPMENT

Decision: PR

Decision Date:

Ref: I/2011/0515/PREAPP

Proposals: Proposed housing development

Decision: EOLI

Decision Date: 16-JAN-13

Ref: LA09/2019/0144/F

Proposals: Proposed housing development comprising of 2 no. detached dwellings and 14. no. Semi detached (total 16 units).

Decision: PG  
Decision Date: 02-DEC-21

Ref: I/1995/0226  
Proposals: Extension to workshop  
Decision: PG  
Decision Date:

Ref: I/1979/0424  
Proposals: BUILDERS' SUPPLIES PREMISES  
Decision: PG  
Decision Date:

Ref: I/1990/0527  
Proposals: Workshop unit for manufacture and storage of kitchen units  
Decision: PG  
Decision Date:

Ref: I/1999/0056  
Proposals: Proposed Extension with Associated Site Works to Existing Driver and Vehicle Test Centre and the Provision of a Temporary access road for use during the construction period  
Decision: PG  
Decision Date: 10-JUL-99

Ref: I/1991/0223  
Proposals: Dwelling (Site 1)  
Decision: WITHDR  
Decision Date:

Ref: I/1977/0018  
Proposals: VEHICLE INSPECTION AND DRIVING TEST CENTRE  
Decision: CROWN  
Decision Date:

Ref: I/1977/001801  
Proposals: VEHICLE INSPECTION AND DRIVING TEST CENTRE COMPRISING INSPECTION HALL, O  
Decision: CROWN  
Decision Date:

Ref: LA09/2016/1258/F  
Proposals: Erection of a garage for storage vintage cars  
Decision: PG  
Decision Date: 09-FEB-17

Ref: I/1980/0063  
Proposals: ELECTRICITY SUBSTATION  
Decision: PG  
Decision Date:

Ref: I/1992/0157  
Proposals: Furniture Workshop  
Decision: PG  
Decision Date:

Ref: I/1973/0044  
Proposals: ERECTION OF WAREHOUSE, BOTTLING PLANT AND OFF-LICENCE  
SALES BUILDING  
Decision: PG  
Decision Date:

Ref: I/1992/0163  
Proposals: Dwelling and Garage  
Decision: PG  
Decision Date:

Ref: LA09/2017/1044/F  
Proposals: Renewal of application I/2011/0417/F 5 single storey workspace units- Light  
Industrial  
Decision: PG  
Decision Date: 05-JAN-18

Ref: I/1977/0148  
Proposals: IMPROVEMENTS TO DWELLING  
Decision: PG  
Decision Date:

Ref: I/2011/0417/F  
Proposals: Erection of 5 no single storey workspace units, use class B - light industrial  
Decision: PG  
Decision Date: 21-DEC-12

Ref: LA09/2017/1428/F  
Proposals: Proposed replace of 2 flat roofs to rear of dwelling with pitched roofs  
Decision: PG  
Decision Date: 25-JAN-18

Ref: I/1992/0496  
Proposals: Dwelling

Decision: WITHDR

Decision Date:

Ref: I/2006/1246/O

Proposals: Residential Development

Decision:

Decision Date:

Ref: I/2006/0833/O

Proposals: Erection of three single storey workspace units, use Class B, Light industrial.

Decision: PG

Decision Date: 28-OCT-08

Ref: I/2000/0476/F

Proposals: Light Industrial/Warehousing Units

Decision: PG

Decision Date: 10-OCT-01

Ref: I/1996/0243

Proposals: Industrial Estate and Factory

Decision: PG

Decision Date:

Ref: I/2004/0408/F

Proposals: car wash facilities (manual type)

Decision: PG

Decision Date: 14-JUN-04

Ref: I/1990/0197

Proposals: Industrial Estate

Decision: PG

Decision Date:

Ref: I/2004/0485/A

Proposals: Business Park Sign

Decision: CG

Decision Date: 15-JUN-04

Ref: I/2007/0109/O

Proposals: Residential Development.

Decision: PR

Decision Date: 26-FEB-08

Ref: I/1999/0606/F

Proposals: Building Supplies Depot to include 2No storage and sales buildings

Decision: PG

Decision Date: 07-APR-00

Ref: I/2001/0220/F

Proposals: Offices toilets & storage areas within existing workshop, including new first floor area with external windows

Decision: PG

Decision Date: 19-DEC-01

Ref: I/2013/0173/F

Proposals: Change of use from Class A (Building supplies/sales and storage) to Class B (Light industrial) for manufacturing of kitchen/bedroom doors, fittings and mouldings. Erection of external filtration equipment and associated plant/plant rooms.

Decision: PG

Decision Date: 10-FEB-14

Ref: LA09/2018/1514/F

Proposals: Proposed extension to existing workshop and replacement storage unit

Decision: PG

Decision Date: 03-SEP-19

Ref: I/1979/0266

Proposals: 11 KV O/H LINE

Decision: PG

Decision Date:

Ref: I/1987/0468

Proposals: 11 KV O/H EXTENSIONS

Decision: PG

Decision Date:

Ref: I/1996/0094

Proposals: Site for 3 No. Dwellings

Decision: PG

Decision Date:

Ref: LA09/2017/0796/F

Proposals: Proposed Garage/ Store for agricultural machinery

Decision: PG

Decision Date: 28-NOV-17

Ref: I/1974/034701

Proposals: ERECTION OF WORKSHOP

Decision: PG

Decision Date:

Ref: I/1974/0347

Proposals: ERECTION OF FURNITURE FACTORY

Decision: PG

Decision Date:

Ref: LA09/2021/0602/F

Proposals: Proposed warehouse extension for storage purposes to NW portion of existing building ( to supercede previous approval LA09/2016/0608/F).

Decision: PG

Decision Date: 15-OCT-21

Ref: I/1992/0495

Proposals: Dwelling

Decision: WITHDR

Decision Date:

Ref: I/1996/0078

Proposals: Computer Assembly Building

Decision: PG

Decision Date:

Ref: LA09/2016/0608/F

Proposals: Extension to existing industrial warehouse building

Decision: PG

Decision Date: 12-OCT-16

Ref: I/2012/0246/F

Proposals: Construction of new entrance access road and associated gates

Decision: PG

Decision Date: 04-OCT-12

Ref: LA09/2018/0299/F

Proposals: Proposed alterations to consist of the following: demolition of existing single storey offices, showroom/display & toilets. Demolition of 2 storey offices within existing warehouse, proposed replacement frontage to include 2 storey building with double height showroom/display, offices, toilets & canteen. Alterations to existing car park area to the front of the building.

Decision: PG

Decision Date: 15-AUG-18

Ref: I/1995/6006

Proposals: Proposed development for Computer Business Premises Ballyreagh, Sandholes Road, Cookstown

Decision: QL

Decision Date:

Ref: I/1995/0014



Proposals: Site for Computer Business including Assembly Area  
Offices and related parking  
Decision: PG  
Decision Date:

Ref: I/2005/1400/F  
Proposals: Steel portal framed cladded storage unit to store electronic components and  
electronic devices.  
Decision: PG  
Decision Date: 08-MAR-06

Ref: I/1997/0417  
Proposals: Extension to Off Sales Shop  
Decision: PG  
Decision Date:

Ref: I/1996/0495  
Proposals: Extension to Workshop  
Decision: PG  
Decision Date:

Ref: I/1991/0176  
Proposals: Dwelling & Garage  
Decision: PG  
Decision Date:

Ref: I/2004/1170/F  
Proposals: Proposed new workshop/storage area, which will incorporate lightweight wood  
cutting/moulding plant machinery  
Decision: PG  
Decision Date: 31-MAR-05

Ref: I/2008/0109/F  
Proposals: Provision of additional storage accomodation in respect of ongoing  
manufacture of kitchen units  
Decision: PG  
Decision Date: 18-JUN-08

### **Summary of Consultee Responses**

Rivers Agency-595291final.pdf  
Shared Environmental Services-LA09-2022-1135-F\_Re\_consult\_response.pdf  
NIEA-  
Environmental Health Mid Ulster Council-LA09-22-1135 F 14 Sandholes Road  
Cookstown BT80 9AR.doc  
DFI Roads - Enniskillen Office-Response Template.docx

NI Water - Strategic Applications-LA09-2022-1135-F.pdf  
NIEA-LA09-2022-1135-F.PDF  
Environmental Health Mid Ulster Council-  
DFI Roads - Enniskillen Office-Response Template - july23.docx  
NIEA-PRT LA09-2022-1135-F.PDF  
Environmental Health Mid Ulster Council-LA09-22-1135 F 14 Sandholes Road  
Cookstown BT80 9AR.doc 190723.doc  
MUDC Environment and Conservation Team-LA09.2022.1135.F.pdf  
Shared Environmental Services-LA09-2022-1135-F\_HRA\_Stage\_2\_AA\_26072023.pdf  
DFI Roads - Enniskillen Office-Response Template - Feb 2024.docx  
DFI Roads - Enniskillen Office-  
DFI Roads - Enniskillen Office-DFI Roads response issued 11/07/2023

Gerry

Environmental Health Mid Ulster Council-LA09 2022 0525 F LCC Sandholes Rd.doc  
NIEA-PRT LA09 2022 1135 F.pdf  
Environmental Health Mid Ulster Council-LA09.2022.1135.F.pdf

### **Drawing Numbers and Title**

Proposed Plans Plan Ref: 23-129-DR-101  
Site Layout or Block Plan Plan Ref: 3664-L04  
Proposed Plans Plan Ref: 23-129-DR-100  
Site Location Plan Plan Ref: 3664-L01  
Site Layout or Block Plan Plan Ref: 3664-L04  
Existing Site Survey Plan Ref: 3664-L02  
Site Layout or Block Plan Plan Ref: 21-120-DR-101  
Road Access Plan Plan Ref: 21-120-DR-104  
Road Access Plan Plan Ref: 21-120-DR-105  
Site Layout or Block Plan Plan Ref: 21-120-DR-103  
Elevations and Floor Plans Plan Ref: 3664-L03  
Longitudinal Sections Plan Ref: 3664-L05  
Longitudinal Sections Plan Ref: 21-120-DR-102

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.5
<b>Application ID:</b> LA09/2022/1459/F	<b>Target Date:</b> 18 January 2023
<b>Proposal:</b> Renewal of Planning approval LA09/2017/0168/F - Proposed New Robotic Dairy Unit	<b>Location:</b> 110 M SW Of 10 Ballynagarve Road Magherafelt
<b>Referral Route: Refuse is recommended</b>	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr William Watterson And Sons 134 Ballyronan Road Magherafelt BT45 6HR	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  Application is an in time renewal for a robotic dairy unit.  Original approval granted on 5/10/17 and renewal application validated 5/10/22.  Policy context for the original approval was PPS 21 - CTY 12 which is unchanged from the date of the original approval. There is therefore no reason to re-examine the policy justification for the principle of this development.  However, given the proposals proximity to Lough Neagh (600M) and the potential for it to generate ammonia, it appears insufficient consideration was given as part of the original application to the impact on Lough Neagh, which is protected by both a SAC and Ramsar designation. SES have been consulted in relation to this and have sought additional information. The agent has been asked for additional information on four occasions but has not provided it.  There is therefore insufficient information to enable an assessment of the impact on Lough Neagh and the proposal is contrary to NH 1 of PPS 2.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-1459 F Robotic Milking Parlour Ballynagarve Road.doc
Non Statutory Consultee	NI Water - Single Units West	Consulted in Error. Please resend to NI Water - Strategic Applications.
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-1459-F.DOCX
Non Statutory Consultee	NI Water - Strategic Applications	LA09-2022-1459-F.pdf
Non Statutory Consultee	Shared Environmental Services	LA09-2022-1459-F - FI required 29-02-24.pdf
Statutory Consultee	NIEA	PRT LA09-2022-1459-F ERR.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	0

Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<p><b>Summary of Issues</b></p> <p>Insufficient information to determine if application complies with NH1 of PPS 2</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is approximately half a mile NW of the settlement limit of Ballyronan in the countryside as per the Cookstown Area Plan. The site is set back 120m from the Ballynagarve Road. There is a dwelling immediately adjacent to the site but located over 100m east of the proposed building.</p> <p>The application site is approximately 600m from Lough Neagh.</p> <p>The site consists of a portion of a larger field in an area which has a rural character with the predominant land use consisting of agriculture and single dwellings.</p> <p>Permission was granted on this site in 2017 for a robotic dairy unit under LA09/2017/0168/F</p>	
<p><b>Description of Proposal</b></p> <p>The proposal is for a renewal of planning application LA09/2017/0168/F which was for a new robotic dairy unit and associated access.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p><b><u>Policy Consideration</u></b></p> <p>The following polices are relevant to this application</p> <ul style="list-style-type: none"> <li>• SPPS</li> <li>• Cookstown Area Plan 2010</li> <li>• PPS 21 – Sustainable Development in the Countryside</li> <li>• PPS 2 – Natural Heritage</li> </ul> <p><b><u>SPPS</u></b></p> <p>The SPPS states that provision should be made for development on an active and established (for a minimum 6 years) agricultural holding or forestry enterprise where the proposal is necessary for the efficient operation of the holding or enterprise. New</p>	

buildings must be sited beside existing farm or forestry buildings on the holding or enterprise.

#### Cookstown Area Plan

The site is located in the countryside as per the Cookstown Area Plan. It is therefore subject to prevailing rural planning policy.

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

The original permission was granted on 5<sup>th</sup> October 2017 for a “proposed new robotic dairy unit” with a five year time limit condition. This application was validated on 5<sup>th</sup> October 2022 so it constitutes an in time renewal.

The application was assessed under policy CTY 12 of PPS 21 which was the correct policy assessment. This policy has not been amended or revised in the intervening period and therefore I have no reason to question or re consider the policy context relating to the principle of development in relation to this application.

#### PPS 2 – Natural Heritage

Policy NH1 of PPS 2 states that planning permission will only be granted for a development proposal that is not likely to have a significant effect on a European Site (SPA, SAC) or a Ramsar.

This site is located approx. 600m from Lough Neagh which is designated as both a SPA and Ramsar. Having reviewed the original application, it is apparent that no consultation took place with SES or NIEA which in my opinion, should have happened given the proximity to Lough Neagh. The proposal is for a development which would house cattle - on a site on which there are currently no cattle and also involves an underground slurry tank. It therefore has potential to generate ammonia and given its proximity to Lough Neagh, this is a clear environmental concern which wasn't addressed as part of the original application.

I informally consulted SES on 10/3/23 to ask if formal consultation was required. SES responded on 10/3/23 to state that this proposal has the potential to generate ammonia emissions and that further information on the type and animal numbers was required. I have also consulted NIEA who have stated the information associated with the application is inadequate to enable them to respond..

I have requested additional information from the agent on the following dates;

- 21/3/23
- 12/6/23
- 23/6/23
- 20/10/23

There has been no response to any of these requests.

I am therefore left in a position where there is insufficient information to determine whether this application would if approved result in a significant impact on Lough Neagh

and therefore whether or not it is in accordance with policy NH 1 of PPS 2. NIEA and SES have responded to consultations to state that they also have insufficient information to determine what the environmental impacts of this proposal will be.

#### OTHER MATERIAL CONSIDERATIONS

The fact that this application is an in time renewal does not mean that it should be automatically approved. Whilst the policy context for the justification for the principle of development remains the same as when the original application was considered, the consideration of the impacts on the European designated site (Lough Neagh) was not given appropriate consideration.

No objections have been received.

Consultation with all of the following agencies have been carried out with no objections;

- DFI Roads
- Env. Health (MUDC)
- NI Water

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

Refuse is recommended

Given all of the above considerations, I recommend that this permission is refused due to there being insufficient information to determine the application. Refusal reason outlined below.

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Planning Policy Statement 2: Natural Heritage insofar as insufficient information has been provided to demonstrate that the proposal will not have a significant impact on Lough Neagh which is a European site and Ramsar.

**Signature(s):** Colin McKeown

**Date:** 22 March 2024





<b>ANNEX</b>	
<b>Date Valid</b>	5 October 2022
<b>Date First Advertised</b>	18 October 2022
<b>Date Last Advertised</b>	18 October 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 10 Ballynagarve Road Magherafelt Londonderry BT45 6HY The Owner / Occupier 14 Ballynagarve Road Ballyronan More Magherafelt Londonderry BT45 6HY	
<b>Date of Last Neighbour Notification</b>	16 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2022/1459/F  Proposals: Renewal of Planning approval LA09/2017/0168/F - Proposed New Robotic Dairy Unit  Decision:  Decision Date:</p> <p>Ref: LA09/2017/0168/F  Proposals: Proposed new robotic dairy unit  Decision: PG  Decision Date: 05-OCT-17</p> <p>Ref: I/1976/0490  Proposals: EXTENSION TO DWELLING AND GARAGE  Decision: PG  Decision Date:</p> <p>Ref: I/1994/0282  Proposals: Alterations and extension to dwelling  Decision: PG  Decision Date:</p>	

**Summary of Consultee Responses**

Environmental Health Mid Ulster Council-LA09-22-1459 F Robotic Milking Parlour Ballynagarve Road.doc

NI Water - Single Units West-Consulted in Error. Please resend to NI Water - Strategic Applications.

DFI Roads - Enniskillen Office-Full Resp.docx

DAERA - Coleraine-Consultee Response LA09-2022-1459-F.DOCX

NI Water - Strategic Applications-LA09-2022-1459-F.pdf

Shared Environmental Services-LA09-2022-1459-F - FI required 29-02-24.pdf

NIEA-PRT LA09-2022-1459-F ERR.pdf

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.6
<b>Application ID:</b> LA09/2023/0421/F	<b>Target Date:</b> 20 July 2023
<b>Proposal:</b> Amendment of housing development layout as approved under LA09/2021/0191/F from 42 houses to 20 No. semi-detached houses & 4 No. detached houses	<b>Location:</b> 8 Killyneill Road Dungannon BT71 6LL
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr and Mrs John Quinn 211 Coalisland Rd Dungannon BT71 4DP	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0421-F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	11-01-2024.docx
Statutory Consultee	DFI Roads - Enniskillen Office	24-04-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	29-09-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	14-09-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	19-03-2024.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	27-06-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Conditions.docx
Statutory Consultee	DFI Roads - Enniskillen Office	21-11-2023.docx
Statutory Consultee	DFI Roads - Enniskillen Office	12-10-2023.docx

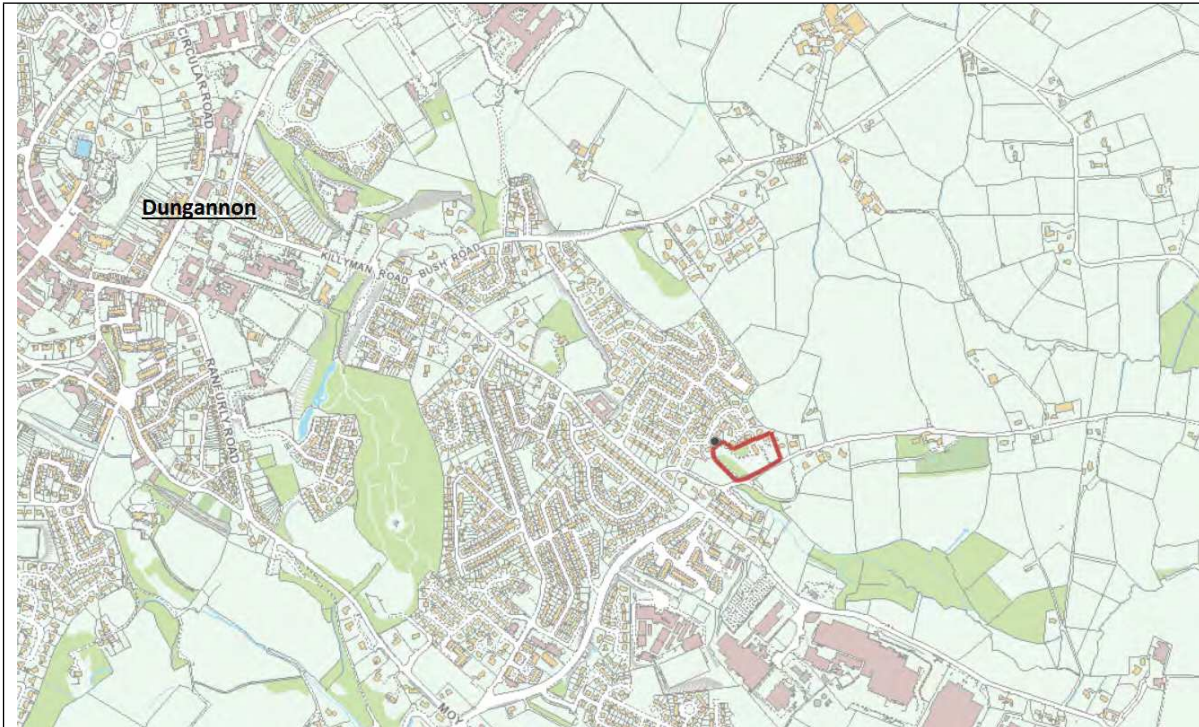
### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site lies within the settlement limits of Dungannon near the South Eastern limits and outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010. The area itself is predominantly residential, however the land becomes rural in nature a short distance to the East.



The NW boundary of the site along Laurel View is defined by 8-10m high coniferous hedge line. The SW boundary of the site is on a moderately sloping site with a mix of non native and native species trees 10 - 12m in height.

The NE boundary is also defined by non native species trees approx 10m in height. The road side boundary of the site is defined by 5ft high wooden fencing and steep bank sloping downwards towards SE.

The area has detached plots on spacious grounds and newer developed plots with a high to medium density scattered throughout.



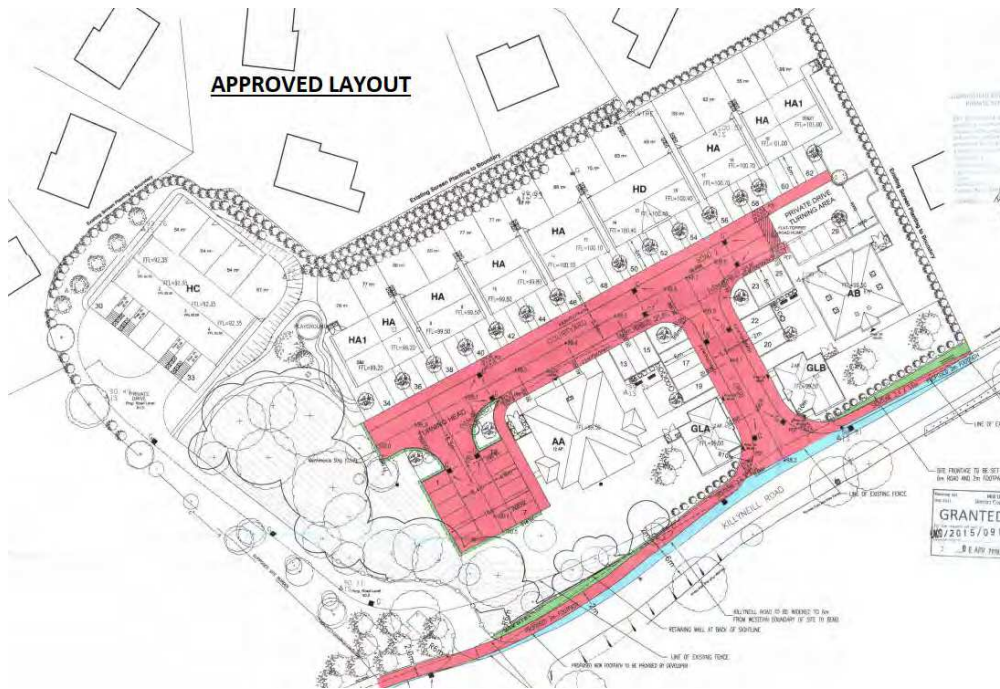
### **Description of Proposal**

The proposal seeks full planning permission for an amendment of housing development layout as approved under LA09/2021/0191/F from 42 houses to 20 No. semi-detached houses & 4 No. detached houses. (See below layouts)

**PROPOSED LAYOUT**



**APPROVED LAYOUT**



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

**Policy Consideration**

**Assessment**



## 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. The Council are now preparing to submit the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010 (DSTAP)- this is the extant area plan for the area. This proposal is located within the settlement limit of Dungannon where there is a general presumption in favour of development. The site has no particular land use designation in the Area Plan.

Policy Sett1 of the DSTAP states that favourable consideration will be given to development proposals within settlement limits including zoned sites provided certain criteria are met including the following;

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

## Key Planning Policy

SPPS- Strategic Planning Policy Statement for NI

PPS 7 Quality residential environments

PPS 12 - Housing in settlements.

## Relevant Planning History

M/2007/1093/F - Approved 29.10.2010 - Provision of 17 No. townhouses, 25 No. apartments with associated car parking and landscape enhancements. Permission granted 11.11.2010

LA09/2015/0918/F- Renewal of Planning Permission (M/2007/1093/F) for provision of 17 Town houses, 25 Apartments with associated car parking and landscape enhancements, permission granted 05.04.2016.

LA09/2021/0191/F - Renewal of Planning Permission for provision of 17 town houses, 25 apartments with associated car parking and landscape enhancements. Permission granted 04.05.2021.

### **Third Party Representations**

One objection has been raised from a concerned neighbour. The concerns included;

- Close to adjoining properties
- Loss of light
- Loss of privacy

With regards to the concerns, the objector who lives at no.9 Laurel View is located adjacent to the northwestern point of the site. The separation distance building to building will be over 10metres, as this distance is minimal, the agent has demonstrated on the plans that there will be a 1.8metre close boarded fence along the boundary line as well as a 1.8m high screen wall to aid privacy and give a sense of separation. The original plans were closer than this, however, the agent has submitted amended plans to increase separation distance to the maximum. It will also be an improvement on the previous approval which could still be developed.

In consideration of overlooking or loss of privacy, due to the position of the wall and fence as well as the additional of more planting including mature trees between the objector and the nearest dwelling there will be no overlooking from ground floor windows. The only window on the gable end facing the objectors property is a small en-suite window which will cause minimal intrusion.

With a wall to wall separation of over 10 metres and the position of a new fence and proposed trees along the boundary property there will be minimal impact of over shadowing from house 1.

### **PPS 7 - Quality Residential Environments**

**QD1** - Quality in new residential environments.

All proposals for residential development will be expected to conform to all of the following criteria:

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

The immediate area around the application site has a mix of house densities/types. To the immediate north and south of the site there are housing with agricultural fields to the east, as yet undeveloped. The proposal is for 24 dwellings, the layout, landscaping and hard surface areas are considered acceptable. The design of the buildings is comprised of a mix of semi and detached dwellings finished in cream renders walls, dark tiles roof or red brick with dark roof tiles. (see below)



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

The design needs to be considered in the context of the adjacent scheme and is broadly similar in both size and design and therefore acceptable to the case officer.

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

No loss of privacy/amenity will result, separation distances are considered acceptable from back wall to rear boundary (10m). The objector has raised issues particularly regarding the proximity of the gable wall of dwelling 1 and the rear of their property. However, this is no closer than the previous approval which could still be enacted and the proposed wall, fence and tree planting will alleviate these concerns. This has been considered in more detail in the assessment of the objection.

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

It could be argued the development has been designed to deter crime and promote personal safety, be means of passive surveillance and communal areas.

#### **PPS15 Planning and Flood Risk**

From the Strategic Flood Maps NI the site does not appear to be within a flood plain or be affected by pluvial ponding. A development of this size does not require a drainage assessment. Drainage consideration would have been assessed under the larger previous permission and were found to be acceptable.

Case officer recommendation is to approve.

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

The visibility splays of 2.4 metres by 51 metres to the east and 2.4 metres by 62 metres

to the west at the junction of the proposed access road with the public road, shall be provided in accordance with the Drawing No.8G bearing the PSD stamp dated 29/2/24, prior to the commencement of any works or other development.

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

#### Condition 3

The gradients 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.

#### Condition 4

The visibility splays of 2.0 metres by 55 metres at the junction of the proposed private access with Killyneill Road, shall be provided in accordance with the Drawing No.8G bearing PSD stamp dated 29/2/24, prior to the commencement of any works or other development.

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

#### Condition 5

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

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

#### Condition 6

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

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

#### Condition 7

All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.2A dated 22nd March 2024 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling.

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

**Condition 8**

Prior to the occupation of each individual dwelling hereby approved, the boundary treatments defining each curtilage shall be constructed as detailed on Drawing No. 2A date received 22 MAR 2024.

Reason: To ensure that boundary treatments are provided in a timely manner to assist in the provision of a quality residential environment in accordance with PPS7 (Quality Residential Environments).

**Condition 9**

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.8G bearing PSD stamp dated 29/2/24.

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.

**Condition10**

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

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing NO.8G bearing PSD stamp dated 29/2/24. 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.

**Signature(s):** Peter Hughes

**Date:** 22 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	6 April 2023
<b>Date First Advertised</b>	17 April 2023
<b>Date Last Advertised</b>	17 April 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  14 Killyneill Road Dungannon Tyrone BT71 6LL  The Owner / Occupier  9 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  25 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  7 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  23 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  27 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  11 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  29 Laurel View Dungannon Tyrone BT71 6UA  The Owner / Occupier  12 Killyneill Road Dungannon Tyrone BT71 6LL</p>	
<b>Date of Last Neighbour Notification</b>	13 April 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/2002/0886/F  Proposals: Housing Development  Decision: PR  Decision Date: 06-SEP-05</p> <p>Ref: M/2000/1127/F  Proposals: Retrospective application in respect of 2 No. Dwellings at Laurelview Killyneill Road Dungannon, Nos 11 &amp; 21.  Decision: PG</p>	

Decision Date: 13-APR-01

Ref: M/1999/0687/F

Proposals: Sunroom extension

Decision: PG

Decision Date: 17-NOV-99

Ref: M/2002/0531/O

Proposals: 14 No. two/three storey townhouses and footpath link (to include alterations/widening of Killyneill Road)

Decision: PG

Decision Date: 11-JAN-05

Ref: M/1993/0014

Proposals: Site for dwelling

Decision: PG

Decision Date:

Ref: M/1996/0505

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: M/1999/0915/O

Proposals: Site for 6 no detached houses including provision of footway link on opposite side of Killyneill Road

Decision: PG

Decision Date: 12-JAN-01

Ref: M/2005/1013/Q

Proposals: Housing Development

Decision: PREA

Decision Date: 06-SEP-13

Ref: LA09/2021/0144/F

Proposals: Conversion of garage and proposed single storey side extension to provide a sun lounge internal renovation to provide a shower room

Decision: PG

Decision Date: 23-MAR-21

Ref: M/2004/0290/Q

Proposals: sunroom

Decision: 360

Decision Date: 02-APR-04

Ref: M/1981/003001



Proposals: DWELLING HOUSE

Decision: PG

Decision Date:

Ref: M/1981/0030

Proposals: ERECTION OF DWELLING

Decision: PG

Decision Date:

Ref: M/1989/0290B

Proposals: Erection of dwelling

Decision: PG

Decision Date:

Ref: M/1989/0290

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: M/2006/0248/F

Proposals: Proposed change in approved house type to 5 No apartments (AMENDED DRAWINGS)

Decision:

Decision Date:

Ref: M/2007/1093/F

Proposals: Provision of 17 No.townhouses, 25 No.apartments with associated car parking and landscape enhancements.

Decision: PG

Decision Date: 11-NOV-10

Ref: LA09/2021/0191/F

Proposals: Renewal of Planning Permission for provision of 17 town houses, 25 apartments with associated car parking and landscape enhancements

Decision: PG

Decision Date: 04-MAY-21

Ref: LA09/2023/0421/F

Proposals: Amendment of housing development layout as approved under LA09/2021/0191/F from 42 houses to 20 No. semi-detached houses & 4 No. detached houses

Decision:

Decision Date:

Ref: M/2005/1349/RM

Proposals: 14no. two/three storey townhouses and footpath link (to include

alterations/widening of Killyneill Road)

Decision: PG

Decision Date: 05-JUN-06

Ref: M/2002/0273/F

Proposals: New access to dwelling (amendment to previous approval ref. M/98/0685).

Decision: PG

Decision Date: 08-MAY-03

Ref: M/1998/0685

Proposals: Proposed Dwelling

Decision: PG

Decision Date:

Ref: M/2006/0249/F

Proposals: Proposed change in approved house type to 5No apartments (New Drawings)

Decision:

Decision Date:

Ref: M/1999/0673/F

Proposals: Dwelling house

Decision: PG

Decision Date: 23-OCT-99

Ref: M/2002/0720/F

Proposals: Change of orientation of 2 No.sites

Decision: PG

Decision Date: 01-MAY-03

Ref: M/1998/0464

Proposals: Change of Housing Layout and House Type

Decision: PG

Decision Date:

Ref: M/1997/0031

Proposals: Housing Development

Decision: PG

Decision Date:

Ref: LA09/2017/0843/DC

Proposals: Housing Development (Discharge of Condition)

Decision: AL

Decision Date: 04-JUL-17

Ref: M/2007/1396/F

Proposals: Proposed 15 No townhouses, estate roadway and parking areas (amended

drawings)

Decision: PR

Decision Date: 22-DEC-09

Ref: LA09/2015/0918/F

Proposals: Renewal of Planning Permission for provision of 17 Town houses ,25 Apartments with associated car parking and landscape enhancements

Decision: PG

Decision Date: 14-APR-16

Ref: M/2004/0999/F

Proposals: Extension to dwelling

Decision: PG

Decision Date: 14-SEP-04

### **Summary of Consultee Responses**

NI Water - Multiple Units West-LA09-2023-0421-F.pdf

DFI Roads - Enniskillen Office-11-01-2024.docx

DFI Roads - Enniskillen Office-24-04-2023.docx

DFI Roads - Enniskillen Office-29-09-2023.docx

DFI Roads - Enniskillen Office-14-09-2023.docx

DFI Roads - Enniskillen Office-19-03-2024.DOCX

DFI Roads - Enniskillen Office-27-06-2023.docx

DFI Roads - Enniskillen Office-Conditions.docx

DFI Roads - Enniskillen Office-21-11-2023.docx

DFI Roads - Enniskillen Office-12-10-2023.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

Proposed Plans Plan Ref: 04

Proposed Plans Plan Ref: 05

Proposed Plans Plan Ref: 06

Proposed Plans Plan Ref: 07

Roads Details Plan Ref: 08

Longitudinal Sections Plan Ref: 09

Proposed Plans Plan Ref: 10

Roads Details Plan Ref: 8A

Roads Details Plan Ref: 8B

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2023/0724/F	<b>Target Date:</b> 24 October 2023
<b>Proposal:</b> Proposed Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary site works	<b>Location:</b> Lands approximately 80M to The North and East of No122a Moneymore Road and approximately 40M to The West and South of Magherafelt Substation, Magherafelt
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Magherafelt BES Ltd. Unit 1 Wallace Studios Lisburn BT27 4AE	<b>Agent Name and Address:</b> Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b> <p>This application is being presented to the committee as it is a Major application and two objections have been received. A number of consultations have been carried out with relevant stakeholders as listed below. No objections have been received by any consultees who have viewed all relevant documents and plans submitted. A number of conditions have been provided to apply to any approval. With regards to the two objections received these have been fully considered within the assessment of this planning application and the objections are viewable on Mid Ulster District Council's public access page. The appropriate community consultation was carried out prior to the submission of the full planning application. A copy of the Pre-Application Community Consultation Report is viewable on Mid Ulster District Council's public access page.</p> <p>An EIA determination was carried out under LA09/2023/0194/DTEIA which determined that an EIA was not necessary.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	SONI LTD	SONI Response LA09_2023_0724_F Moneymore Road.pdf
Statutory Consultee	Rivers Agency	649176 - Final Response.pdf
Non Statutory Consultee	NIE	No Response letter LA09_2023_0724_F.docx NIE Networks has no objection to the proposal, we have suggested a noise condition the council may want to consider on the submitted letter
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.0724.F.pdf
Statutory Consultee	Rivers Agency	
Non Statutory Consultee	Shared Environmental Services	LA09-2023-0724-F - FIR 05-01-2024.pdf
Non Statutory Consultee	Health And Safety Executive For NI	CN202308-0002 - Lands approx 80m to N & E of 122a Moneymore Rd and

			approx 40m to W & S of Moneymore Substation, Magherafelt BT45 6HJ - 12.12.2023.pdf CN202308-0002 - Lands approx 80m to N & E of 122a Moneymore Rd and approx 40m to W & S of Moneymore Substation, Magherafelt BT45 6HJ (07.02.2024).pdf
Non Consultee	Statutory	Environmental Health Mid Ulster Council	
Non Consultee	Statutory	NI Fire And Rescue Service Headquarters	2024.02.25 - LA09_2023_0724_F - NIFRS Consultation Response.pdf
Statutory Consultee		Shared Environmental Services	LA09-2023-0724-F HRA - AA 01-03-2024.pdf
Statutory Consultee		DFI Roads - Enniskillen Office	Roads Consultation full approval.docx
Non Consultee	Statutory	NI Fire And Rescue Service Headquarters	2024.02.25 - LA09_2023_0724_F - NIFRS Consultation Response.pdf
Non Consultee	Statutory	Environmental Health Mid Ulster Council	LA09-23-0724 F Proposed Battery Energy Storage System.doc
Non Consultee	Statutory	Rivers Agency	578487 - Final Response.pdf
Non Consultee	Statutory	Health And Safety Executive For NI	CN202308-0002 - Lands approx 80m to N & E of 122a Moneymore Rd and approx 40m to W & S of Magherafelt Substation, Magherafelt BT45 6HJ.pdf
Non Consultee	Statutory	NI Fire And Rescue Service Headquarters	2023.09.11 - LA09_2023_0724_F - NIFRS Consultation Response.pdf
Non Consultee	Statutory	NI Water - Strategic Applications	LA09-2023-0724-F.pdf
Statutory Consultee		NIEA	PRT LA09-2023-0724-F.PDF
Statutory Consultee		Historic Environment Division (HED)	
<b>Representations:</b>			

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

**Summary of Issues**

**Characteristics of the Site and Area**

The site is located within the open countryside, approximately 0.5km southeast of the settlement limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The red line of the application site is a large irregular shape which consists of existing agricultural lands. The site can be viewed in two parts, one section to the east of 122a Moneymore Road, which begins at the road, and extends west and uphill towards this dwelling and then extends to the north of the dwelling with the land slopping in a northern direction. There is an existing NIE Sub Station to the north east of the site. The immediate boundaries of the red line are predominantly undefined; however, the site is screened in the wider context with some existing trees and hedges. The immediate surrounding area is mainly agricultural with a dwelling at 122a Moneymore Road the closest dwelling to the site and the NIE Sub Station and farm building's location further east to the site.



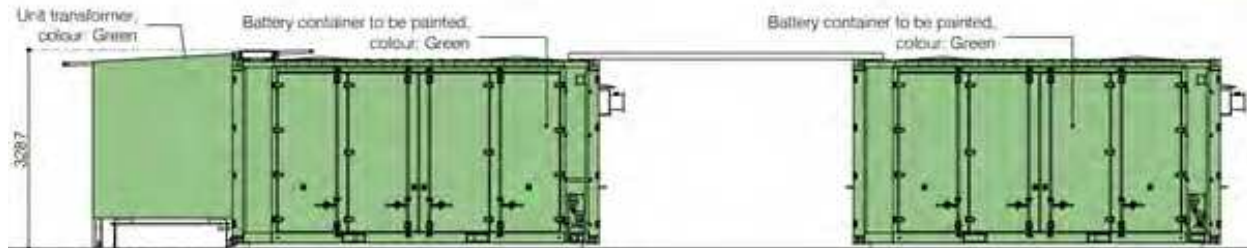


## Description of Proposal

This is a full planning application for a Proposed Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary site works.

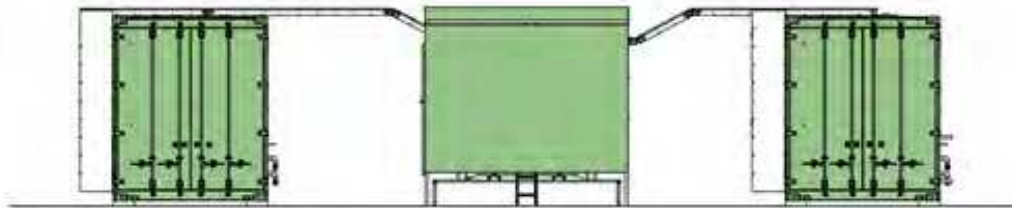
The proposal includes the following:

- 39no. Battery Container Blocks- Each block 4no. Battery containers (156 total containers)



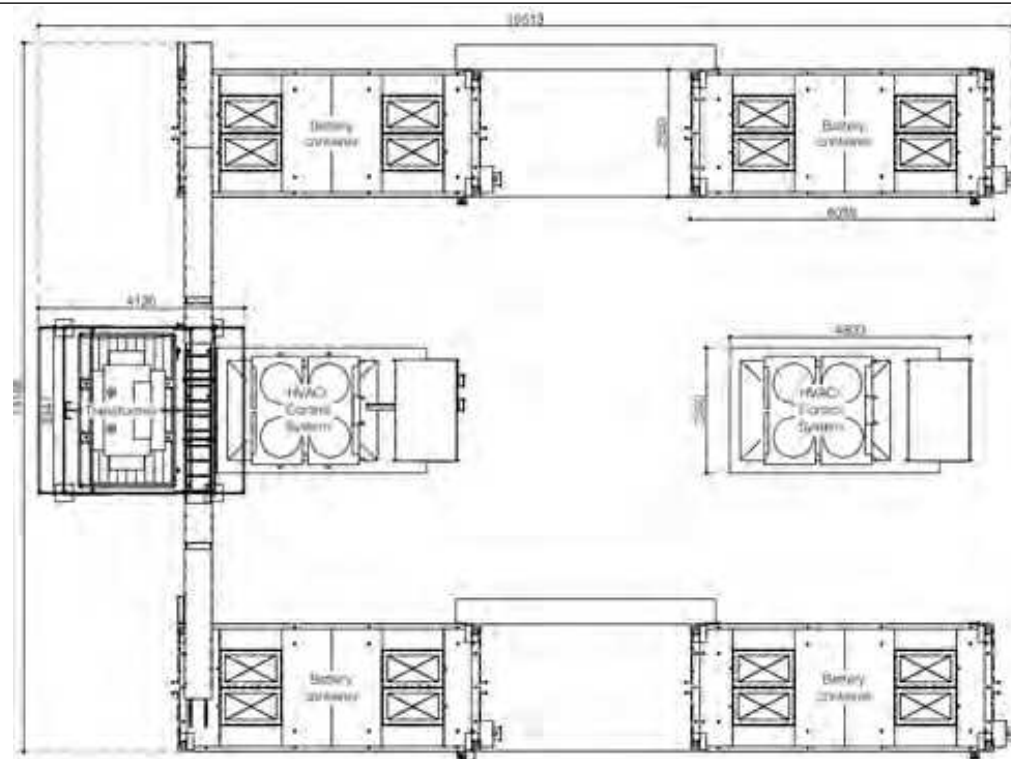
**Proposed Front Elevation**

Scale 1:100



**Proposed Side Elevation**

Scale 1:100



**Proposed floor plan**

- 78no. HVAC Systems/ Dry Cooler Units
- 39no. Transformer Units
- 23no. Ring Main Units (RMU)
- 7no. Auxiliary Transformers
- 275kV Electrical Substation building and compound.
- Underground Cable
- Securing Fencing around site perimeter.

The site is viewed as two separate sites, one directly east of 122a Moneymore Road and another part directly north, joined by an access lane. Access to the site is taken directly from the Ballymoghlan Road to the East of the site. There is a substation building to be located centrally in the site, along the western boundary of the site. The substation will be secured by a 2.4m high palisade fence. Within the compound footprint the substation building will be a single-storey building (5.268m to ridge) and will contain all the necessary switch rooms, control rooms and equipment necessary to connect the BESS to the electricity network. The substation building will have a pitched roof with grey/ black tiles, the walls will have a mix of smooth render painted white/ grey dash/grey facing block.



## **Policy Consideration**

Magherafelt Area Plan 2015  
Regional Development Strategy 2035 (RDS)  
Strategic Planning Policy Statement for Northern Ireland (SPPS)  
PPS 2: Natural Heritage  
PPS 3: Access, Movement and Parking  
PPS 6: Planning, Archaeology and the Built Heritage  
PPS 15 (Revised): Planning and Flood Risk  
PPS 21: Sustainable Development in the Countryside  
A Planning Strategy for Rural Northern Ireland

As this type of development is a relatively new concept, it is important to get an understanding of the concept of BESS systems. In December 2020, the Chief Planner issued an update to all local Council's to provide information and advice on a number of planning matters which included BESS systems – CPU7. The Department here departed from the PAC's recent opinion and confirmed that BESS development falls within the meaning of an "energy generating system".

Taking into account the judgement of ABO Wind NI Ltd and Energia Renewables Co Ltd Judicial Review in October 2021, the Judge recognised that a BESS facility carries out multiple tasks;

- Converting imported energy into a form which can be stored
- Storage of this converted energy
- Conversion of the stored energy into electrical energy.

The Judicial Review concluded that a BESS facility does not really fall into Class 1-8 of the Planning (Development Management) Regulations (NI) 2015 and therefore should be classified as Class 9 – All Other Development.

The site area for the proposal is 3.57ha and therefore the application is considered to be a major development. A Proposal of Application Notice (PAN) was submitted to the Council on 23rd February 2023 for the proposed development. The PAN (LA09/2023/0201/PAN) was accepted by the Council on 20th March 2023. Further information regarding the PAN methods and Pre-Application Community Consultation (PACC) are provided within the PACC report submitted as part of this application.

As the development is within Category of Schedule 2 of the Planning (Environment Impact Assessment) Regulations (NI) 2017 the Council is obliged under Regulation 13 of these Regulations to make a determination as to whether the application is for EIA development. An EIA screening and scoping request was issued to the Council on 21st February 2023 (LA09/2023/0194/DTEIA). An EIA screening was carried out by Mid Ulster District Council and the determination letter was issued to the agent on 17th August 2023 to confirm that an Environmental Statement is not required to accompany the planning application.

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), as 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 Regional Development Strategy (RDS) – Shaping our Future provides the overarching strategic framework and recognises that transport, agricultural and “energy supply” are the main contributors to greenhouse gas emissions. It aims to improve connectivity to enhance the movement of people, energy and information while also reducing our carbon footprint and facilitate adaptation to climate change.

It is important in all aspects of planning to address the consequences of climate change, which means an even greater focus on where people live and work and how transport and energy needs are planned. The RDS confirms that decision makers will have to balance economic growth and the environmental impacts on air quality and energy supply for industry and transportation.

In the RDS, Regional Guideline 5 promotes the need to deliver a sustainable and secure energy supply, referring to developing smart grid initiatives to improve the responsiveness of the electricity grid to facilitate new forms of renewable generation and to improve reliability, productivity and energy efficiency. The Regional Guideline 9 seeks to reduce our carbon footprint as well as facilitating mitigation measures while adapting to climate change and focussing on renewable energies also. The RDS in Chapter 4 – Regionally significant Economic Infrastructure refers to the need to facilitate the provision of additional renewable power generation and to address different areas of weakness in the energy grid. I am content this proposed development of a BESS would comply with and contribute to achieving the promotive principles of the RDS.

The Strategic Planning Policy Statement (SPPS) provides the core planning principles which underpin the delivery of the two-tier planning system with the aim of supporting sustainable development while promoting a sustainable environment. This policy is material to all planning application decisions and has retained some of the Planning Policy Statements, although any conflict between the SPPS and any retained policy will be in favour of the SPPS. In reference to telecommunications and other utilities, the SPPS aims to facilitate the development of such infrastructure in an efficient and effective manner whilst keeping environmental impact to a minimum. As the SPPS does not introduce more stringent policy context in respect of development such as is proposed in this planning application, the relevant planning policy which to assess this BESS is therefore provided by PPS 21 – Sustainable Development in the Countryside. Policy CTY 1 – Development in the Countryside within PPS 21 lists a range of non-residential development which includes certain utility or telecommunication developments which may be considered acceptable in a countryside location.

The Planning Strategy for Rural Northern Ireland (PRSNi) is also relevant to this proposal, in terms of Policy PSU 8 – New Infrastructure. This policy states that the need for need infrastructure must be balanced against the objective to conserve the environment and protect amenity. It goes on to say that decision makers must be satisfied there is an overriding regional or local requirement for the development and a through exploration of alternative sites has been undertaken.

PSU 8 specifies that “the potential adverse impact of existing infrastructure upon neighbouring land uses will be a material consideration” and advises that applications for new infrastructure must take into consideration;

1. Need for the facility
2. Impact on the environment
3. Impact on existing communities
4. Impact on the Natural or man-made Heritage
5. Existence of alternative sites
6. Mitigation of adverse effects.

Within the Design and Access statement submitted by the agent, they have addressed each of the above 6 policy considerations and I am content that the proposal complies with all 6.

#### Need for the Facility

It is evident that in today’s world, the need for electricity is increasing as technologies such as the introduction of electric vehicles and other activities advance, and it is anticipated the fostering of energy may be a key driver to unlock renewable capacity.

BESS is an innovative solution, which is being deployed across the world, to facilitate the shift from traditional thermal generation to low/zero carbon generation as well as managing the transition of both heat and transport to electrification. The battery storage will help match generation produced from intermittent renewable generation with the peaks and troughs in electricity demand.

The need for battery energy storage systems has been identified by SONI under their DS3 programme. The delivery of the DS3 programme is required to allow Northern Ireland to meet its renewable energy targets. The proposal provides an opportunity for Mid Ulster District Council to support innovative technology, contribute towards renewable energy targets, ensure a secure electricity supply to its population, and play its part in reducing electricity costs for consumers.

#### Impact on the environment- in particular the visual and ecological impacts

The site is not located within any restrictive environmental or landscape designations. A Landscape Visual Impact Assessment (LVIA) and photomontages have been submitted in support of this application and aid the assessment of any potential visual impacts. Having reviewed the LVIA and carried out a site visit, I am content that the proposal will not have any significant visual impact on the countryside. The site is a rural location, accessible via a minor road. Whilst travelling along the Moneymore Road in a south eastern direction views are immediately drawn to the large NIE sub station at the bottom of the hill. The proposal will not have a significantly detrimental impact on the visual landscape.

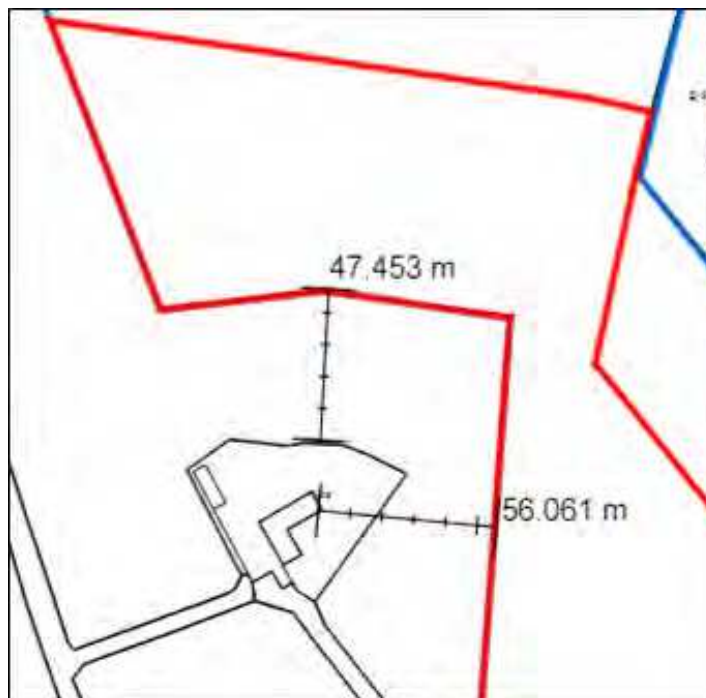
With regards to any potential ecological impacts the agent submitted a Preliminary Ecological Appraisal (PEA) as well as other relevant reports. NIEA were consulted on the proposal and the relevant reports submitted. Water Management Unit considered the impacts of the proposal on the surface water environment and, on the basis of the information provided, is content with the proposal subject to Conditions, the applicant noting the advice contained in the Explanatory Note, the applicant referring and adhering to Standing Advice, and any relevant statutory permissions being obtained.

Regulation Unit, Land and Groundwater Team have no objections to the development provided conditions and informatives are placed on any Planning Decision Notice, as recommended.

Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommended conditions. From the above I am content the proposal will have no negative ecological impacts.

#### Impact on existing communities

The surrounding area is mainly rural however, there is a third-party dwelling located south and west of the application site. The red line of the application site is approximately 47m from the curtilage of the dwelling and approximately 56m from the western boundary of the site to the dwelling.



Within the Design and Access statement the agent states that this dwelling is financially involved with the site, however it is not contained within the blue land of the application site. That being said, it is still necessary to assess any negative impacts this dwelling might have as a result of the proposed development, as well as other dwellings located surrounding the site. The other two dwellings which are closest to the site are 124 Moneymore Road which is located approximately 240m south west of the site and 37 Ballymoghlan Road which is located approximately 175m south east of the application site, although it is located approximately 80m south of the proposed access point.

Consultations were issued to Environmental Health regarding any potential nuisance arising from the proposal through noise. Having reviewed the application and the supporting information, Environmental Health were content with the proposal with conditions attached to any approval. They also provided an informative stating that, all

flood lighting shall be optically controlled and directed in such a manner as to minimise light pollution from glare and spill. Guidance notes for the reduction of light pollution may be obtained from the Institution of Lighting Professionals. With regards to the letters of objections received, Environmental Health confirmed they considered them and have no additional comments to make.

HSENI and Fire and Rescue Service Northern Ireland were both consulted on the application, and both re-consulted following the receipt of letters of objections. HSENI have provided three consultation responses which are viewable on the planning portal and offered advice and no objections to the proposal. They were asked to review the objection letters received and again offered no objections regarding health and safety reasons. They also confirmed that batteries are classified as Articles under the Classification, Labelling and Packaging of Chemicals Regulations (CLP), therefore the batteries alone would not bring an establishment under COMAH. The operator must still consider loss of control scenarios and other safety concerns regarding fire and explosions. The agent did submit an assessment which considered a loss of control scenario which summarised the Fire Risk Assessment considered the control measures to be implemented and concluded that the propagation of a fire beyond a single BESS unit (container) was unlikely.

In a Loss of Control Scenario more than 78 containers, in excess of nineteen groups of four, would be required to combust simultaneously to potentially produce hazardous substances at a level that exceeds the thresholds for PHSC (and COMAH). Using the aggregation rule, more than 40 containers, 10 groups of 4, would be required to combust simultaneously in order to exceed the health threshold; and the closest property is in excess of 45 m from the proposed BESS units, so no further assessment of explosion risk is required. I am content that on balance the proposal poses little risk to any nearby residents. It should also be noted that the operators of BESS facilities are required to comply with Health and Safety Regulations and this is outside the control of the planning department to enforce.

NIFRS also provided a number of consultation responses, and no concerns were raised. They did advise that BESS premises will become “relevant premises” as defined by The Fire and Rescue Services (Northern Ireland) Order 2006 and The Fire Safety Regulations (Northern Ireland) 2010. NIFRS is the enforcing authority and carries out audits of relevant premises to ensure compliance. So, while the objector has raised a number of concerns regarding the health and safety of the proposal and potential risks from such developments, these are dealt with under separate legislation. While this planning assessment does consider the potential impacts of the proposal on existing communities, I do not believe there is overriding evidence to suggest that the proposal is unsafe or unsuitable for the area. Sufficient evidence has been provided by the applicant to demonstrate the risks are low and that mitigation has been considered in any loss of control scenarios.

#### Impact on the Natural or man-made Heritage

The agent submitted several reports including an Archaeological and Cultural Heritage Assessment and a Preliminary Environmental Appraisal (PEA). The impact of the proposed development on known and potential archaeological and cultural heritage assets was assessed. It was concluded that construction could have an impact on any



physical remains within the red line boundary but that there would be no impact either physically or on the setting of any monuments or buildings within the wider study area. To ameliorate any potential impacts a mitigation strategy was proposed. The mitigation recommended the archaeological surveillance of mechanically excavated test trenches. Historic Environment Division (HED) were consulted and having considered the assessment, it agrees with the findings and recommendations of the report and archaeological mitigation in advance of site works.

With regards to Natural Heritage, NIEA were consulted, and the following advice was provided:

Water Management Unit considered the impacts of the proposal on the surface water environment and, on the basis of the information provided, is content with the proposal subject to Conditions, the applicant noting the advice contained in the Explanatory Note, the applicant referring and adhering to Standing Advice, and any relevant statutory permissions being obtained.

Regulation Unit, Land and Groundwater Team have no objections to the development provided conditions are attached to any planning permission granted.

Natural Environment Division has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommended conditions.

Shared Environmental Services (SES) carried out a Habitat Regulations Assessment (HRA) and stated that following an appropriate assessment in accordance with the Regulations and having considered the nature, scale, timing, duration and location of the project, SES advises the project would not have an adverse effect on the integrity of any European site either alone or in combination with other plans or projects.

Based on the above, I am content the proposal will not have any adverse impact on Natural or man-made heritage following the input of the necessary consultees.

#### Existence of alternative sites or routes

The proposal is located within close proximity to an existing substation to ensure a feasible connection but does provide sufficient separation to ensure no curtailment of any future expansion. Due to the nature of a BESS facility, its sustainability decreases the further away it is sited from the source of energy supply, therefore it is necessary that they are sited close to existing electricity substations if possible. By siting the BESS where it is proposed on the block plan, I am content it will cluster with the existing facility adjacent, thereby not appearing as a brand-new single entity being introduced into the landscape.

#### Provision to mitigate adverse effects.

The agent has provided numerous assessments which outline the mitigation requirements to be incorporated into the proposal. Consultations were sent to relevant consultees for their input on any additional conditions that are required to ensure the development has not adverse impacts. I am satisfied that conditions attached to any permission granted on this site would ensure that all areas of mitigation are covered in

terms of health and safety to protect employees, nearby residents as well as the natural environment and its inhabitants also.

From the above assessment I am content that the proposal complies fully with Policy PSU 8 and other policy considerations to be discussed further in this report due to the overlapping of some of the policies.

### **PPS 2: Natural Heritage**

PPS 2 provides planning sets out the Department's planning policies for the conservation, protection and enhancement of our natural heritage. From the above assessment carried out and assessed above, I am content that the proposal will not have any adverse impacts on the natural heritage.

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

Dfl Roads were consulted on the application as the proposal includes a new access being created onto the public road. Dfl Roads reviewed the application and the information submitted and offered no objection subject to conditions being applied relating to the visibility splays.

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

As previously discussed, HED were consulted and agrees with the findings and recommendations of the reports submitted and archaeological mitigation works should take place in advance of site works.

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

The proposed access for the development is to be within the determined 1 in 100-year fluvial flood plain. As a result, before the submitted Flood Risk Assessment can be fully appraised Dfl Rivers required the planning department to confirm that the principle is acceptable through meeting the exceptions test as set out under Policy FLD 1. It was agreed that the proposal could be considered against criteria D of the exceptions test of FLD 1 in that the development is for utilities infrastructure and for operational reasons has to be located within the flood plan. It is important to note that only a small section of the access is to be located within the floodplain, and no built development in terms of equipment or buildings are to be within the floodplain. In any case this access is the only achievable access to the site and for operational reasons as previously mentioned, the development needs to be sited near the existing NIE Substation.

Dfl Rivers were re-consulted when they were informed that the exception can be accepted and as such, they assessed the FRA submitted. Dfl Rivers has no reason to doubt the technical findings within the FRA. An undesignated watercourse appears to be identified on Site traversing the eastern portion of the site. Under 6.32 of the policy, it is essential that a working strip of minimum width 5m is retained. Dfl Rivers requires that the working strip is shown on a site layout drawing that will be included in any Planning Decision Notice to enable enforcement of the provision of the working strip.

Dfl Rivers reviewed the Drainage Assessment also submitted by the applicant and has requested a condition is attached requiring the applicant to submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from

the surface water drainage network, in a 1 in 100 year event including a 20% allowance for climate change.

With regards to FLD 4, Artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. The planning department is content that the culverting is necessary for access to the site.

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

CTY 13 & CTY 14 are relevant policies to Integration and Design and rural character within the countryside. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. Having reviewed the Landscape Visual Impact Assessment (LVIA) and photomontages I am content that the proposal will not be a prominent feature in the landscape and the site will not rely primarily on new landscaping for integration. I am content that the design of the equipment and buildings on site is appropriate for the site and the locality. The proposal blends with the landscape which is a sloping site and being located adjacent to the existing NIE Sub Station aids integration.

CTY 14 states planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of the area. As previously stated, I am content that the proposal will not be an unduly prominent feature in the landscape. The character of the area is a mix of agricultural lands with the NIE substation being a prominent feature in the landscape while travelling along the public roads. I am content the proposal will not further erode the rural character of the area.

### **Other Material Considerations**

With regards to the two objections received, one objector raised 3 points of concern, the first being the impact on the sale of their dwelling which is not a material consideration. The second being safety concerns relating to the batteries and the third being impacts of noise and light emissions from the site. Environmental health were consulted and have no objections subject to conditions being applied to any approval.

The second objection letter was a detailed objection with the points being raised relating to health and safety concerns with the proposal. The objector also states that the HRA must include an assessment in respect of effects of a toxic gas cloud on air soil and water following a loss of control process at the BESS. The applicant provided an assessment which considers the loss of control scenario, which all relevant consultees have had the chance to review prior to providing comment, in which no objections were received.

The objector states there should be no assumption that the Health and Safety legislation will be met. Any concerns relating to Health and Safety regulations are outside the remit of planning control and are dealt with under separate legislation. The objector also queries who would be responsible/liable if there was a loss of control process however, again this is outside the control of planning.

While it is acknowledged that there is an element of risk associated with this type of development, there is no demonstrable evidence that shows the proposal would have a significant impact on the environment or public health. Members are advised that all material planning issues raised in these objections have been fully considered and consultee advice sought. The objections do not merit the refusal of this application. Appropriate conditions and informatives are recommended.

Mid Ulster District Council in its role as the competent Authority under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), and in accordance with its duty under Regulation 43, has adopted the HRA report, and conclusions therein, prepared by Shared Environmental Service, dated 01/03/2024. This found that the project would not have an adverse effect on the integrity of any European site.

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

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

Approve is recommended

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

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

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

o Preparation of the digital, documentary and material archive for deposition.

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

#### Condition 3

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 2.

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

#### Condition 4

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 2.

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

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

#### Condition 5

Prior to works commencing on site, all existing trees shown on Drawing No 10 as being retained shall be protected by appropriate fencing in accordance with British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations. No retained tree shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree other than in accordance with the approved plans and particulars, without the written approval of the Mid Ulster District Council Planning Authority.

Reason: To protect the biodiversity value of the site, including protected species

#### Condition 6

No development activity, including ground preparation or vegetation clearance, shall take place until a (final) Construction and Environmental Management Plan (CEMP) has been submitted including the changes regarding otters and approved in writing by Mid Ulster District Council Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by Mid Ulster District Council Planning Authority. The CEMP shall include the following:

- A) Construction methodology and timings of works;
- B) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site;

- C) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures;
- D) Water Quality Monitoring Plan;
- E) Environmental Emergency Plan;
- F) Details of the appointment of an Ecological Clerk of Works (ECoW) and their roles and responsibilities.
- G) Specific reference to the Control of Pollution (Oil Storage) Regulations (Northern Ireland) 2010 and how works at the site will comply with the Oil Storage Regulations (OSR).

Reason: To protect Northern Ireland priority habitats and species, to ensure implementation of mitigation measures identified within the Environmental Statement and to prevent likely significant effects on the name of designated site.

#### Condition 7

If during the development works, new contamination or risks to the water environment are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with Mid Ulster District Council Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

#### Condition 8

After completing all remediation works under Condition 7 and prior to operation of the development, a verification report needs to be submitted in writing and agreed with the Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

Reason: Protection of environmental receptors to ensure the site is suitable for use.

#### Condition 9

All landscaping comprised in the approved details of landscaping on stamped drawing No.10 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside.

#### Condition 10

The operation phase site drainage shall be constructed to include an emergency shut off valve located upstream of the site's discharge point to the watercourse in accordance with paragraph 9.2 of the Emergency Response Plan (Synergy, dated June 2023) and Appendix D of the McCloy Consulting Flood Risk and Drainage Assessment, dated June 2023, unless otherwise agreed in writing by the Council.

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

#### Condition11

Prior to the construction of the drainage network, the applicant shall submit a Drainage Assessment, compliant with FLD 3 & Annex D of PPS 15, to be agreed with the Council which demonstrates the safe management of any out of sewer flooding emanating from the surface water drainage network, in a 1 in 100 year event including a 20% allowance for climate change.

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

#### Condition12

The predicted noise levels associated with the proposal shall not exceed limits presented in table 5, page 13 of the Irwin Carr Consulting report titled 'Noise Impact Assessment, Magherafelt, BESS,' dated 21 June 2023 and referenced RP001n 2023023 when measured at a distance of 3 metre from the façade of the appropriate residential property.

Reason: To protect amenity of nearby residential dwellings.

#### Condition13

Within 4 weeks of a written request by the Planning Department, following receipt of a reasonable complaint, a noise survey shall be undertaken, submitted to and agreed in writing with the Council. The duration of such monitoring shall be sufficient to provide comprehensive information on noise levels with all plant and equipment operating under normal operating conditions and demonstrate whether or not the noise limits stipulated in condition 12 are being achieved. All monitoring shall be carried out at the operator's expense. The Council shall be notified not less than 2 weeks in advance of the commencement of the noise survey.

Reason: To protect amenity of nearby residential dwellings.

#### Condition14

Following completion of the noise survey and where noise monitoring demonstrates exceedances of noise limits stipulated in condition 12 the applicant shall provide details of additional noise mitigation measures that will be incorporated into the proposal to ensure compliance with condition 12. Any remedial measures required shall be carried out to the satisfaction of the Council within 4 weeks of their approval and shall be permanently maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect amenity of nearby residential dwellings.

#### Condition15

Construction works, which are audible at any noise sensitive property outside the site, shall only take place between the hours of 07:00 -19:00 hours on Monday to Friday, 07:00 -14:00 hours on Saturday with no works being undertaken on Public/Bank

Holidays. Outside of these hours, work at the site shall be limited to emergency works, or construction work that is not audible at any noise sensitive property.

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

**Signature(s):** Ciaran Devlin

**Date:** 25 March 2024



<b>ANNEX</b>	
<b>Date Valid</b>	11 July 2023
<b>Date First Advertised</b>	25 July 2023
<b>Date Last Advertised</b>	25 July 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 37 Ballymoghlan Road Magherafelt Londonderry BT45 6HN The Owner / Occupier 122A Moneymore Road Magherafelt Londonderry BT45 6HJ The Owner / Occupier RNN - 33E Ballymoghlan Road Magherafelt Londonderry BT45 6HN	
<b>Date of Last Neighbour Notification</b>	9 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: H/1992/0340 Proposals: IMPROVEMENTS TO FARMHOUSE Decision: PG Decision Date:	
Ref: H/2006/0636/F Proposals: Single Storey Replacement Dwelling And Garage Decision: PG Decision Date: 22-FEB-07	
Ref: LA09/2023/0194/DTEIA Proposals: Proposed Battery Energy Storage System (BESS) facility Decision: EIANR Decision Date:	
Ref: LA09/2023/0201/PAN Proposals: Proposed Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary	

site works

Decision: PY

Decision Date: 20-MAR-23

Ref: H/2003/0678/RM

Proposals: Dwelling house and domestic garage.

Decision: PG

Decision Date: 12-FEB-04

Ref: H/2001/0709/O

Proposals: Site Of Dwelling And Garage

Decision: PG

Decision Date: 19-OCT-01

Ref: H/2003/1058/F

Proposals: Extension to dwelling.

Decision: PG

Decision Date: 22-JAN-04

Ref: LA09/2023/0724/F

Proposals: Proposed Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary site works

Decision:

Decision Date:

### **Summary of Consultee Responses**

SONI LTD-SONI Response LA09\_2023\_0724\_F Moneymore Road.pdf

Rivers Agency-649176 - Final Response.pdf

NIE-No Response letter LA09\_2023\_0724\_F.docxNIE Networks has no objection to the proposal, we have suggested a noise condition the council may want to consider on the submitted letter

Environmental Health Mid Ulster Council-LA09.2023.0724.F.pdf

Rivers Agency-

Shared Environmental Services-LA09-2023-0724-F - FIR 05-01-2024.pdf

Health And Safety Executive For NI-CN202308-0002 - Lands approx 80m to N & E of 122a Moneymore Rd and approx 40m to W & S of Moneymore Substation, Magherafelt BT45 6HJ - 12.12.2023.pdfCN202308-0002 - Lands approx 80m to N & E of 122a Moneymore Rd and approx 40m to W & S of Moneymore Substation, Magherafelt BT45 6HJ (07.02.2024).pdf

Environmental Health Mid Ulster Council-

NI Fire And Rescue Service Headquarters-2024.02.25 - LA09\_2023\_0724\_F - NIFRS Consultation Response.pdf

Shared Environmental Services-LA09-2023-0724-F HRA - AA 01-03-2024.pdf

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

NI Fire And Rescue Service Headquarters-2024.02.25 - LA09\_2023\_0724\_F - NIFRS

Consultation Response.pdf  
Environmental Health Mid Ulster Council-LA09-23-0724 F Proposed Battery Energy Storage System.doc  
Rivers Agency-578487 - Final Response.pdf  
Health And Safety Executive For NI-CN202308-0002 - Lands approx 80m to N & E of 122a Moneymore Rd and approx 40m to W & S of Magherafelt Substation, Magherafelt BT45 6HJ.pdf  
NI Fire And Rescue Service Headquarters-2023.09.11 - LA09\_2023\_0724\_F - NIFRS Consultation Response.pdf  
NI Water - Strategic Applications-LA09-2023-0724-F.pdf  
NIEA-PRT LA09-2023-0724-F.PDF  
Historic Environment Division (HED)-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Existing Plans Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03  
Proposed Plans Plan Ref: 04  
Proposed Plans Plan Ref: 05  
Proposed Plans Plan Ref: 06  
Proposed Plans Plan Ref: 07  
Proposed Plans Plan Ref: 08  
Proposed Plans Plan Ref: 09  
Landscape Proposals Plan Ref: 10  
Site Layout or Block Plan Plan Ref: 03 Rev A

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.8
<b>Application ID:</b> LA09/2023/0782/F	<b>Target Date:</b> 6 November 2023
<b>Proposal:</b> Proposed residential development comprising of 12 no. dwellings (mix of detached dwellings and chalet bungalows), private amenity space, landscaping, new site access, and all associated ancillary works.	<b>Location:</b> Lands Approx 16M to SW of No. 21 Moneysharvan Road, Swatragh, Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> N/A N/A 6 Dunglady Road Maghera BT46 5SU	<b>Agent Name and Address:</b> Miss Robyn Nicholl 20 May Street Belfast BT1 4NL
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0782-F.pdf
Statutory Consultee	Rivers Agency	653780 - Final reply.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0782 F residential Moneysharvin Road Swatragh.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 2.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 4 PSD.docx
Statutory Consultee	Rivers Agency	827068 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist.docRoads Consultation.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2023 0782 F residential Moneysharvin Road Swatragh.doc
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0782-F.pdf
Statutory Consultee	Rivers Agency	569252 - Final reply.pdf
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0782-F.pdf

Statutory Consultee	Rivers Agency	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 3.docx
Statutory Consultee	Rivers Agency	890760 - Final reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation 4 PSD.docx
Statutory Consultee	Rivers Agency	

### Representations:

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

### Summary of Issues

There were six letters of support received for this application and no objections were received.  
The six letters of support all state that there is a need for additional dwellings in the area.

### Characteristics of the Site and Area

The site is located on lands which are south west of 21 Moneysharvan Road, Swatragh. Swatragh is a small village located approximately 3.7 miles/6 km to the north of Maghera on the main Moneysharvan Road (A29). Swatragh is a designated settlement which has a number of churches, commercial businesses, outdoor recreation and playing fields and a variety of housing. The Knockoneil River flows through the village from northwest to southeast.

The subject site comprises part of a larger agricultural field parcel which falls to the west of the Moneysharvan Road. The subject land comprises a site area of approx. 0.94ha. On the opposite side of Moneysharvan Road to the site is St John's Primary School. The site is irregular in shape and gently undulating with the roadside boundary being defined by a timber post and rail fence and some sporadic planting. The site sits below road level along the site frontage. The southern boundary is defined by the field boundary which contains mature trees and hedging. The western site boundary is undefined however the western boundary of the filed is defined by a strong belt of mature trees. The northern boundary is defined by mature hedging and trees and abuts the curtilages of numbers 19 and 21 Moneysharvan Road.

The application site has a 113m roadside frontage, with an overall site area of approximately 0.94ha. The site is situated in close proximity to local churches and schools with a mix of residential in the wider locality. Existing housing within the locality of the site comprises a mix of one and two storey, detached and semi-detached dwellings with some terraces within the wider area.

The site does not lie within a 1 in 100-year flood plain as per Rivers Agency flood map. Furthermore, the site is unaffected by any listed building or monument. The closest listed building (St John the Baptist Chapel) is 140m to the south of the site, and is separated by a graveyard and further agricultural field.

### **Description of Proposal**

Proposed residential development comprising of 12 no. dwellings (mix of detached dwellings and chalet bungalows), private amenity space, landscaping, new site access, and all associated ancillary works.

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

#### **Policy Consideration**

There is no relevant planning history on the proposed site.

The relevant policies for consideration of this application are:

Strategic Planning Policy Statement

Magherafelt Area Plan 2015

Planning Policy Statement 3 - Access, Movement and Parking.

Planning Policy Statement 7 - Quality Residential Environments.

Planning Policy Statement 12 - Housing in Settlements

Planning Policy Statement 13 - Transportation and Land Use

Planning Policy Statement 21 – Sustainable Development in the Countryside  
Creating Places

#### **Development Plan and Key Policy Consideration**

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

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

The lands in question are indicated as lying outside but immediately adjacent to the settlement development limits of Swatragh as defined in the Magherafelt Area Plan 2015 and therefore there is a presumption against development of multiple dwellings on this

site. The proposed layout has a density of 12.8 dwellings per hectare. As this is a site within the rural area as defined in the Magherafelt Area Plan, the proposal to construct twelve dwellings is contrary to the Area Plan.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was published in February 2019. Appendix 1 of the Draft Plan Strategy provides information on Housing Growth Local Indicators and Economic Development Local Indicators for the District over the plan period and states the number of dwellings within Swatragh to be 145, based on the 2011 census. This figure equates to 0.30% share of the total number of all households within the districts urban areas. Appendix 1 of the Draft Plan strategy also provides details of the number of dwellings allocated to Swatragh over the Plan Period of 2015-2030. Based on Swatragh’s 0.30% share of the housing allocation, this equates to 33 dwellings over the Plan period. However, the following planning approvals have already been granted for housing in and adjacent to the settlement development limit of Swatragh;

LA09/2022/1050/RM – Site for residential development under Policy CTY 5 of PPS 21 providing 14 no. dwellings (7 social and 7 Affordable) as per outline planning approval at Lands North and West Of 35 Upperlands Road, Swatragh, – Approved 25.04.2023.

LA09/2022/1195/F – Proposed change of house type from previous approvals (LA09/2017/1747/F & LA09/2021/1185/F) to provide 7 No detached dwellings with detached garages at Lands To The Rear Of 80 To 90 Drumbane Road Maghera – Approved 01.02.2023.

A further planning application is currently being considered by Council under application LA09/2023/1124/O for ‘Site for residential development providing 15 no. dwellings’ at Site South-West of 131 Lismoyle Road Swatragh.

The current application (LA09/2023/1124/O) site is within the settlement development limits and therefore there is a presumption in favour of development on this land. The two approved sites account for a total of 21 dwelling units, 7 units within the settlement development limit and 14 (social and affordable) units outside, but adjacent to the settlement development limits. Given that there is a reasonable likelihood of approval being granted for the current application (LA09/2023/1124/O), this would result in a total of 36 units being approved within and immediately adjacent to Swatragh development limits. Such a scenario would result in an excess of 3 dwellings being provided at Swatragh. Therefore the proposed development would be considered to be contrary to the Draft Plan Strategy.

PPS 7 Quality Residential Environments – Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive



aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

This is an full application and is therefore being assessed against these criteria as follows:-

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

Although the proposed site is within the rural area, the proposal meets the first of these criteria in that, at 12.8 dwellings per hectare, it respects the surrounding context in terms of layout as the density of the surrounding areas ranges from 18.6 dwellings per hectare at Drumbane Road to 20 dwellings per hectare in both Ringsend Close and Granahan Park/Stoney Park.

However, the design of the dwellings is a mixture of single and two storey dwellings with a mixture of external finishes including smooth render and red facing brick, with hipped roofs and dormer windows set mid-way up the roof plane. Such design features are not acceptable nor characteristic of what is expected to be found on dwellings in the rural area. Therefore, the design of the dwellings is unacceptable in this rural location.

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

A search of the site, conducted using the online Historic Environment Map Viewer, found no scheduled monuments within or in close proximity to the site which would be affected by the proposal. The site is not within an Area of Archaeological Potential and there is no record of any archaeological artefacts being discovered during the development of the surrounding lands. Any landscape features which extends to the existing boundary hedgerows are identified and can be protected to way of condition. Although St. John the Baptist's Church is listed, it is located over 100m to the south of the site. The mature hedgerow along the southern boundary of the site effectively screens the site from view on approach from the south and together with the mature trees surrounding the Church, means there would be no visual connection between the proposed dwellings and the Church. A similar situation results in approach from the north, where again, the proposed dwellings and the Listed church would not be visually linked. Therefore the proposed development would not have any conceivable impact on the Listed Building and a consultation with Historic Buildings Unit was not considered necessary.

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

The layout shows a development with 12 dwellings, therefore there is no requirement for the provision of public open space. This arrangement provides for all dwellings to have adequate private amenity space ranging from 80m<sup>2</sup> to 434m<sup>2</sup> for all dwellings, with an average of 177m<sup>2</sup>.

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

The site is located outside but immediately adjacent to the settlement of Swatragh and within 75m of the local shop, directly opposite the local primary school and within 500m of the centre of Swatragh which contains shops, a restaurant and public house and car sales. Therefore the site is close to and within walking distance of the centre of Swatragh and therefore the provision of neighbourhood facilities are not deemed necessary within the site;

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

The site has direct access onto a stretch of the Moneysharvan Road (Protected Route), which at this point is within the settlement development limit. The proposed access will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;

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

Adequate provision can be made for all sites to have car parking, with all twelve dwellings having at least two in-curtilage parking spaces. DfI Roads have advised that the level and positioning of the proposed parking is acceptable.

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

The design of the development in terms of form, materials and detailing have been considered in detail and are considered unacceptable for this location. The use of Hipped roofs, red brick on two storey front projections and dormer windows set mid-way up the roof planes are not a traditional form of development in this rural area and are therefore considered to be unacceptable.

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

Given the existing surrounding land uses, the proposal will not create a conflict with adjacent land uses which are predominantly dwellings in addition to the local primary school.

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

Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

Planning Policy Statement 21 – Sustainable Development in the Countryside  
Policy CTY 1 – Development in the Countryside states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.

Policy CTY 1 does not include any provision for multiple housing in a rural location, outside of defined settlement limits, apart from a small group of houses in a designated Dispersed Rural Community in accordance with Policy CTY 2 or the provision of social and affordable housing in accordance with Policy CTY 5.

The proposed development is neither within a Dispersed Rural Community nor is it for social or affordable housing.

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

Policy CTY 5 – States that Planning permission may be granted for a group of no more than 14 dwellings adjacent to or near a small settlement or within a designated Dispersed Rural Community to provide social and affordable housing to meet the needs of the rural community. Planning permission will only be granted where the application is made by a registered Housing Association and where a demonstrable need has been identified by the Northern Ireland Housing Executive which cannot readily be met within an existing settlement in the locality.

The proposed development is for 12 dwellings which is less than the permissible 14 dwellings and it abuts the settlement of Swatragh. However, the application has been made by a private developer and not by a registered Housing Association. Furthermore, the applicant, in an e-mail of 13<sup>th</sup> February 2024 stated *‘that NIHE confirmed last week that there is zero Need for Social Housing in Swatragh at present.’*

It is also noted that two approvals have already been granted for social and affordable housing developments outside and adjacent to the settlement development limits of Swatragh. H/2011/0574/RM was granted approval for ‘proposed development of 10 no. semi-detached, social and affordable dwellings for a registered housing association, under planning policy PPS21 CTY5’ and LA09/2022/1050/RM was granted approval for ‘site for residential development under Policy CTY 5 of PPS 21 providing 14 no.

dwelling (7 social and 7 Affordable), thereby providing 24 social and affordable housing units outside the settlement development limits of Swatragh.

Furthermore, Policy CTY 5 states that ‘generally only one group will be permitted in close proximity to any particular rural settlement or within any particular Dispersed Rural Community.’ If approved, this development would be the third development approved outside the settlement of Swatragh. The proposed development is also contrary to Policy CTY 5 in this regard.

The proposed development is therefore contrary to Policy CTY 5 in that it is not to provide social or affordable housing for the rural community, the application has not been made by a registered Housing Association, no demonstrable need has been identified by the Northern Ireland Housing Executive and If approved, this development would be the third development approved outside the settlement of Swatragh.

Policy CTY 8 – Planning permission will be refused for a building which creates or adds to a ribbon of development. An exception to this is the development of a small gap site which can accommodate up to two dwellings within a line of three or more existing buildings. The proposal also has to respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

The proposed development is located on a site at the end of a row of buildings within the settlement of Swatragh and without any built form to the southern end. The proposed development includes a line of five dwellings along the site frontage, which is clearly not considered to be an infill opportunity.

The proposal is therefore contrary to Policy CTY 8 in that the proposed development does not constitute a gap site within a substantial and continuously built up frontage and if approved would result in ribbon development along this part of the Moneysharvan Road.

Policy CTY 13 – Integration and Design of Buildings in the Countryside states that; planning permission will be granted for a dwelling in the countryside where it can be visually integrated into the surrounding landscape and is appropriate design, but that it will be unacceptable where:-

- The site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape;
- It relies primarily on the use of new landscaping for integration;
- Ancillary works do not integrate with their surroundings;
- The design of the building is inappropriate for the site and its locality;
- It fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop.

The proposed development includes a row of five dwellings along the site frontage and on the main approach road into Swatragh, along the A29 Protected Route. On approach from the south, the road rises up towards the site, which has a post and rail fence along the rear of the public footpath. There are no natural boundaries to either the site frontage

or the rear western boundary to provide a suitable degree of enclosure and integration for the proposed buildings in this rural location outside of the settlement development limit.

As the site has almost no existing vegetation along the site frontage, the development would rely heavily on proposed planting and landscaping to achieve an acceptable degree of integration into the surrounding countryside.

The provision of the entrance road to a housing development of twelve dwellings will require the removal of the entire site frontage to provide the required visibility splays. Such a wide, open access road would not be in keeping with this rural location and would result in the proposal being contrary to this policy.

Although the design of each dwelling may be acceptable in its own right, the fact the proposed development is for twelve dwellings, five of which are stretched along the site frontage in the rural area, the overall design of the proposed development is not in keeping with the rural area in that it provides for multiple dwellings and not for a single rural dwelling.

The proposal fails to blend with the landform in that the site is set to the rear of a post and rail fence, it has neither front or rear boundaries which can provide any degree of integration or a backdrop. The fact that the site fall away from the public road and there is no rear boundary, would result in the proposed development relying on the existing field boundary to the far west to provide any sense of backdrop. Therefore the proposed development would fail to blend with the landform, and any natural features which could provide an acceptable backdrop for the proposed dwellings. As a result, the proposed development is contrary to this policy.

Policy CTY 14 – Rural character States that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. However a new building will be unacceptable where:

It results in a suburban style build-up of development when viewed with existing and approved buildings.

The proposed development will create a frontage of five dwellings along this stretch of the Moneysharvan Road in the rural area. Although the site abuts the settlement development limit of Swatragh, it is nonetheless in the rural area and the five dwellings in a row would create an unacceptable suburban style development in this rural location.

It does not respect the traditional patter of settlement exhibited in that area.  
The creation of a housing development of twelve dwellings does not respect the traditional settlement pattern in this rural area.

It creates or adds to a ribbon of development.

The proposed development would create a line of five dwellings along the road frontage in this rural location. Such a development would constitute ribbon development in this rural area and would be contrary to this policy.

The impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

The provision of an entrance road to a housing development for twelve dwellings will require the removal of the entire site. Such a wide, open access road would open up views into the site resulting in multiple dwellings will be highly visible. This would not be in keeping with this rural location and would result in the proposal being contrary to this policy.

Policy CTY 15 – The Setting of Settlements states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl.

The existing settlement development limit around Swatragh defines the limit of the village and this stops at the northern boundary of the site. The subject site is an undeveloped green field with a similar field to the immediate south. These fields are evident, particularly on approach along the Moneysharvan Road from the direction of Maghera, and they provide a clear distinction between the settlement and the surrounding countryside. Although St. John's the Baptist's RC Church and associated car park exist further south, these two fields provide an important visual break of 170m between the Church grounds and the settlement of Swatragh. If the proposed site were to be developed, this would extend the built form to such an extent that the visual break would be reduced to around 55m. This form of development would mar the distinction between the settlement of Swatragh and the surrounding rural area by creating urban sprawl.

A number of supporting documents were received in respect of the proposed development. These documents include the following:-  
Naíscoll Ghreannacháin – will bring benefits to the community and contribute to the growth of Naíscoll Ghreannacháin. Will help address the need for housing in the area.

St. John's Primary – there is a strong need for local housing.

Gran Tots Playgroup – will bring benefits to the community and contribute positively to the continued growth of Gran Tots Playgroup. Will help address the pressing need for housing in the area.

Michael Davitt GAC Swatragh x 2;

Swatragh is in need of significant new housing stock.

Will bring benefits and sustain playing numbers within Michael Davitt GAC.

Proposal aligns with the long-term vision and goals of the community and club.

Other neighbouring villages and towns have seen a number of significant housing developments passed and built in this time, including Upperlands, Maghera, Guladuff, Bellaghy, Draperstown and Magherafelt.

Some key findings from the survey conducted by our Demographics Committee are;  
Rising demand, limited availability and community impact.

It is proposed the following actions are considered by both Planners and Elected Members;

Increase housing supply, Infrastructure investment, community engagement, support for the first time buyer

In conclusion, addressing the housing shortage in Swatragh is not only a matter of practical necessity but also a moral obligation. Our young people deserve safe, affordable, and comfortable homes where they can build their futures.

In considering the above mentioned housing survey conducted by Michael Davitt GAC Swatragh Demographics Committee, it should be noted from the respondents who stated that someone 'in their household would expect to need a new home in the Swatragh area...' that the survey fails to identify how many, if any, would actually require a dwelling within Swatragh development limits, as opposed to the wider Swatragh area. Therefore, although the survey states there is a need for 152 new homes in the Swatragh area, this does not equate to that need within the settlement development limits.

Glen GAC – too few houses and too many people competing for the same type of properties. The situation is compounded by the influx of people from the same demographic who are from other neighbouring properties who struggle to buy in their own villages. The greatest number being from the Swatragh parish. The type of houses they live in are those required by local Glen volunteers and players. This is about giving people the opportunity to live where they grew up. 10-30 new houses in Swatragh would free up houses in Maghera for local young people.

PPS 3 Access, Movement and Parking Policy AMP 3 allows for access to be taken onto a protected route within settlement development limits. As the settlement development limit of Swatragh clearly extends along the western boundary of the A29 Protected Route at this location and abutting the site frontage, it is Council's opinion that the Moneysharvan Road, which extends along the site frontage is 'Within' Swatragh development limit and therefore the proposed access is compliant with Policy AMP 3.

#### Consultee responses

DfI Roads advised that they consider the access to be onto a protected route which was considered to be outside the settlement development limits and is therefore contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3 in that it would, if permitted, result in the creation of a new vehicular access onto a (Main Traffic Route/Protected Route), thereby prejudicing the free flow of traffic and conditions of general safety.

NI Water raised an issue with the proximity of the proposed dwelling to the waste water treatment works. However, given the site is located around 320m south west of the waste water treatment works and there are existing dwellings in between, it is not considered necessary to obtain an odour encroachment assessment. Although the receiving foul sewage network has reached capacity, the proposed development could be conditioned so that no works commence until a satisfactory means of sewage disposal have been provided and agreed with Council in consultation with NI Water.

Rivers requested that prior to construction of the drainage works, the applicant shall submit a drainage assessment.

Environmental Health advised that they do not have any objections to the proposed development.

**Recommendation**

On consideration of the above, it is my opinion that planning permission should be refused for the reasons stated below:-

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposed development is contrary to the SPPS and the Magherafelt Area Plan 2015 in that it is for multiple dwellings on a site located in the rural area, outside the settlement development limits of Swatragh.

**Reason 2**

The proposed development is contrary to Planning Policy Statement 7 Quality Residential Environments in that it is not appropriate to the character of the site in terms of the design and appearance of the buildings which are not acceptable in the rural area.

**Reason 3**

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

**Reason 4**

The proposal is contrary to Policy CTY5 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:  
the proposal has not been made by a registered Housing Association and no demonstrable need has been identified by the Northern Ireland Housing Executive which cannot readily be met within the existing development limits of Swatragh;  
the proposal is not sited and designed to integrate sympathetically with its surroundings;  
and  
two groups of Social/Affordable Housing have already been permitted in close proximity to this particular settlement.

**Reason 5**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not considered to be a gap site within a substantially and continuously built up frontage, and would, if permitted, result in the creation of ribbon development along this stretch of the Moneysharvan Road.



**Reason 6**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape;

the proposed buildings rely primarily on the use of new landscaping for integration;

the ancillary works do not integrate with their surroundings;

the design of the proposed buildings are inappropriate for the site and its locality.

the proposed buildings fails to blend with the landform, existing trees, slopes and other natural features which provide a backdrop;

and therefore would not visually integrate into the surrounding landscape.

**Reason 7**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings;

the buildings would not, if permitted, respect the traditional settlement pattern exhibited in that area;

the buildings would, if permitted create a ribbon of development;

the impact of ancillary works would damage rural character;

and would therefore result in a detrimental change to the rural character of the countryside.

**Reason 8**

The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Swatragh and the surrounding countryside and would result in urban sprawl.

**Signature(s):** Malachy McCrystal

**Date:** 28 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	24 July 2023
<b>Date First Advertised</b>	8 August 2023
<b>Date Last Advertised</b>	8 August 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  34 Moneysharvan Road Maghera Londonderry BT46 5PY  The Owner / Occupier  32 Moneysharvan Road Maghera Londonderry BT46 5PY  The Owner / Occupier  St Johns Primary School 30 Moneysharvan Road Maghera Londonderry BT46 5PY  The Owner / Occupier  19 Moneysharvan Road Maghera Londonderry BT46 5PY  The Owner / Occupier  21 Moneysharvan Road Maghera Londonderry BT46 5PY</p>	
<b>Date of Last Neighbour Notification</b>	2 August 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1996/6058  Proposals: HOUSING DEVELOPMENT OFF STONEY PARK SWATRAGH  Decision: PRENC  Decision Date: 08-AUG-96</p> <p>Ref: H/1998/0158  Proposals: SITE OF REPLACEMENT DWELLING  Decision: PG  Decision Date:</p> <p>Ref: H/1985/0313  Proposals: SITE OF HOUSING DEVELOPMENT  Decision: PG</p>	

Decision Date:

Ref: H/1992/6131

Proposals: SITE OF HOUSING DEVELOPMENT STONEY PARK DRUMBANE RD  
SWATRAGH

Decision: QL

Decision Date:

Ref: H/1980/0446

Proposals: ROAD LAYOUT

Decision: PG

Decision Date:

Ref: H/1975/0395

Proposals: SITE OF HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/1996/6038

Proposals: HOUSING DEVELOPMENT STONEY PARK SWATRAGH

Decision: PRENC

Decision Date: 17-APR-96

Ref: H/1980/0181

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/1996/0475

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/1997/0480

Proposals: DWELLING & GARAGE

Decision: PG

Decision Date:

Ref: H/1987/0263

Proposals: PUBLIC HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/2009/0260/F

Proposals: Proposed storey & 3/4 extension to side of existing dwelling and single storey  
sun lounge extension to rear of existing dwelling and bay window and canopy to front of

existing dwelling

Decision: PG

Decision Date: 17-JUN-09

Ref: LA09/2021/1022/F

Proposals: Proposed alterations and extension to dwelling

Decision: PG

Decision Date: 15-SEP-21

Ref: H/1992/6078

Proposals: SITE OF HOUSING DEVELOPMENT SWATRAGH

Decision: QL

Decision Date:

Ref: H/2009/0032/F

Proposals: Proposed new recreational playing fields for existing Primary School.

Decision: PG

Decision Date: 10-APR-09

Ref: LA09/2017/0031/F

Proposals: Construction of 2no new classrooms and new boys/girls toilets and demolition of existing toilet block

Decision: PG

Decision Date: 16-MAR-17

Ref: LA09/2023/0349/F

Proposals: Additional mobile unit for after school care on lands located to the rear off 34 Moneysharvan Road, Swatragh

Decision: PG

Decision Date: 09-JUN-23

Ref: H/2002/0225

Proposals: 2 No. Dwellings

Decision: 461

Decision Date:

Ref: H/2003/1286/F

Proposals: Erection of Seven no. dwellings and construction of associated roadways. (Sites no. 3,4,5,20,21,22 & 34).

Decision: PR

Decision Date: 14-DEC-05

Ref: H/2004/0672/F

Proposals: Extensions and alterations to ST John's Primary School

Decision: PG

Decision Date: 03-AUG-04

Ref: H/2010/0413/F

Proposals: Extension to provide shower and wc facilities for special educational needs

Decision: PG

Decision Date: 01-NOV-10

Ref: H/1975/0142

Proposals: TEMPORARY PREFABRICATED CLASSROOM

Decision: PG

Decision Date:

Ref: H/1988/0241

Proposals: TEMPORARY CLASSROOM

Decision: PG

Decision Date:

Ref: H/1980/0306

Proposals: RENEWAL OF TIME LIMITED PERMISSION IN RESPECT OF MOBILE CLASSROOM

Decision: PG

Decision Date:

Ref: H/2002/1061/F

Proposals: 2 No. Dwellings

Decision: PR

Decision Date: 04-MAY-05

Ref: H/1998/6044

Proposals: HOUSING DEVELOPMENT MONEYSHARVIN ROAD SWATRAGH

Decision: PRENC

Decision Date: 23-OCT-98

Ref: H/1992/0386

Proposals: TEMP DOUBLE CLASSROOM UNIT

Decision: PG

Decision Date:

Ref: H/1975/0394

Proposals: SITE OF DWELLING

Decision: PG

Decision Date:

Ref: H/1994/6094

Proposals: HOUSING DEVELOPMENT RINGSEND CLOSE SWATRAGH

Decision: QL

Decision Date:

Ref: H/2004/1064/O  
Proposals: Site of residential development.  
Decision:  
Decision Date:

Ref: H/1984/0436  
Proposals: SITE OF PULBIC AUTHORITY HOUSING DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: H/1978/0017  
Proposals: PETROL PUMPS AND CAR SHOWROOM  
Decision: PG  
Decision Date:

Ref: H/1997/0115  
Proposals: REAR EXTENSION TO DWELLING  
Decision: PG  
Decision Date:

Ref: H/2002/0630/F  
Proposals: Extension to dwelling  
Decision: PG  
Decision Date: 21-AUG-02

Ref: H/1995/0100  
Proposals: ALTS AND ADDS TO DWELLING  
Decision: PG  
Decision Date:

Ref: H/2003/0710/F  
Proposals: External extensions & revised openings.  
Decision: PG  
Decision Date: 05-DEC-03

Ref: H/2014/0039/F  
Proposals: Step realignment to front access of dwelling  
Decision: PG  
Decision Date: 13-MAR-14

Ref: H/2006/0592/F  
Proposals: Proposed 2 storey rear extension,consisting of kitchen & utility on ground floor & bedroom with ensuite on first floor & single storey single extension consisting of porch & extension to living room  
Decision: PG

Decision Date: 20-SEP-06

Ref: H/1999/0328

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: H/1996/0111

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2019/0651/F

Proposals: Proposed extension and alterations to existing dwelling

Decision: PG

Decision Date: 26-JUN-19

Ref: H/1997/6040

Proposals: EXTENSION TO GRAVEYARD ST. JOHNS CHURCH GRANAGHAN  
SWATRAGH

Decision: QL

Decision Date:

Ref: H/1998/0379

Proposals: CAR PARK & EXTENSION TO GRAVEYARD

Decision: PG

Decision Date:

Ref: H/1980/0194

Proposals: MV O/H LINE (BM 3802)

Decision: PG

Decision Date:

Ref: H/2006/0638/F

Proposals: Replacement Parochial House & Garage

Decision: PG

Decision Date: 20-OCT-06

Ref: H/2006/0053/O

Proposals: Site of Housing Development

Decision: PR

Decision Date: 28-OCT-10

Ref: LA09/2016/1126/PAD

Proposals: Housing Development to meet the growing, ageing population of the village,  
8-10 Two Storey Detached Houses and Detached Garages

Decision: PAD  
Decision Date: 15-DEC-16

Ref: H/2015/0003/F  
Proposals: Single storey side extension to dwelling  
Decision: PG  
Decision Date: 31-MAR-15

Ref: LA09/2023/0782/F  
Proposals: Proposed residential development comprising of 12 no. dwellings (mix of detached dwellings and chalet bungalows), private amenity space, landscaping, new site access, and all associated ancillary works.  
Decision:  
Decision Date:

Ref: H/2005/0703/A  
Proposals: Aluminium free standing signage.  
Decision: CR  
Decision Date: 30-JAN-06

Ref: H/1992/4035  
Proposals: IMPROVEMENTS TO DWELLING  
Decision: PDNOAP  
Decision Date:

Ref: H/2002/0772/F  
Proposals: New shop and offices  
Decision: PG  
Decision Date: 21-JAN-03

Ref: H/2012/0225/F  
Proposals: Erection of a two storey replacement dwelling  
Decision: PG  
Decision Date: 20-AUG-12

Ref: H/1993/0238  
Proposals: SITE OF HOUSING DEVELOPMENT  
Decision: PG  
Decision Date:

Ref: LA09/2019/0406/F  
Proposals: Extension to rear of dwelling  
Decision:  
Decision Date:

Ref: LA09/2020/1321/F



Proposals: Extension to rear & ramped access

Decision: PG

Decision Date: 27-JAN-21

Ref: H/1998/0698

Proposals: REPLACEMENT DWELLING AND DETACHED GARAGE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

NI Water - Multiple Units West-LA09-2023-0782-F.pdf

Rivers Agency-653780 - Final reply.pdf

Environmental Health Mid Ulster Council-LA09 2023 0782 F residential Moneysharvin Road Swatragh.doc

DFI Roads - Enniskillen Office-Roads Consultation 2.docx

DFI Roads - Enniskillen Office-Roads Consultation 4 PSD.docx

Rivers Agency-827068 - Final reply.pdf

DFI Roads - Enniskillen Office-DC Checklist.docRoads Consultation.docx

Environmental Health Mid Ulster Council-LA09 2023 0782 F residential Moneysharvin Road Swatragh.doc

NI Water - Multiple Units West-LA09-2023-0782-F.pdf

Rivers Agency-569252 - Final reply.pdf

NI Water - Multiple Units West-LA09-2023-0782-F.pdf

Rivers Agency-

DFI Roads - Enniskillen Office-Roads Consultation 3.docx

Rivers Agency-890760 - Final reply.pdf

DFI Roads - Enniskillen Office-Roads Consultation 4 PSD.docx

Rivers Agency-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03  
Proposed Floor Plans Plan Ref: 04  
Proposed Elevations Plan Ref: 05  
Proposed Floor Plans Plan Ref: 06  
Proposed Elevations Plan Ref: 07  
Proposed Floor Plans Plan Ref: 08  
Proposed Elevations Plan Ref: 09  
Proposed Floor Plans Plan Ref: 10  
Proposed Elevations Plan Ref: 11  
Proposed Floor Plans Plan Ref: 12  
Proposed Floor Plans Plan Ref: 13  
Proposed Elevations Plan Ref: 14  
Proposed Floor Plans Plan Ref: 15  
Proposed Elevations Plan Ref: 16  
Proposed Floor Plans Plan Ref: 17  
Proposed Elevations Plan Ref: 18  
Proposed Floor Plans Plan Ref: 19  
Proposed Floor Plans Plan Ref: 20  
Proposed Elevations Plan Ref: 21  
Proposed Elevations Plan Ref: 22  
Proposed Plans Plan Ref: 23  
Garage Plans Plan Ref: 24  
Garage Plans Plan Ref: 25  
Proposed Elevations Plan Ref: 26

**Notification to Department (if relevant)**

Not Applicable

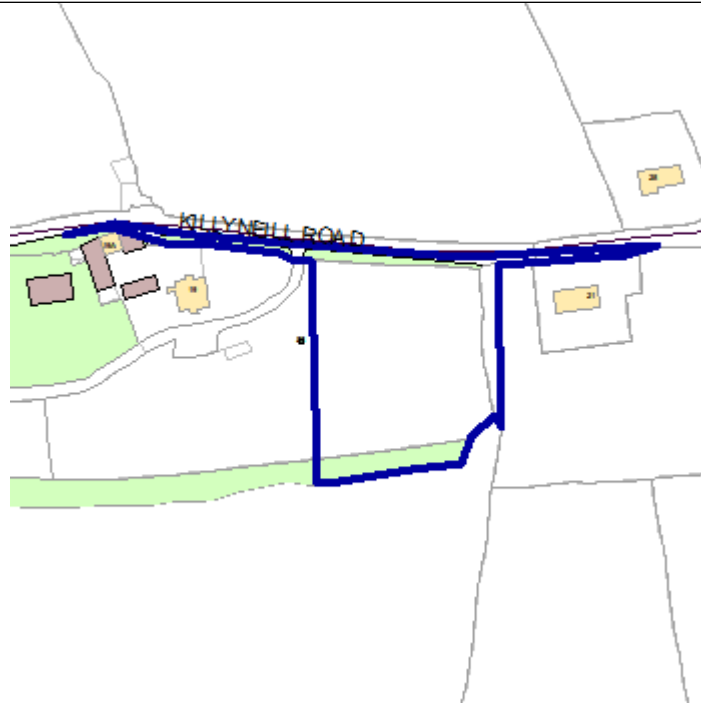


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2023/0872/O	<b>Target Date:</b> 30 November 2023
<b>Proposal:</b> Proposed erection of dwelling and domestic garage in a gap site under CTY8 of PPS21	<b>Location:</b> Land between 19 and 21 Killyneill Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Caran Ltd 222 Scallen Road Trillick	<b>Agent Name and Address:</b> Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>  2No. objections received with issues relating to road safety, rural character and neighbour amenity.  The application site is within the listed building curtilage of No.19 Killyneill Road. Proposal meets all the criteria in CTY 8, CTY 13 and CTY 14 in PPS 21. Historic Environment Division are content with the proposal subject to a ridge height of 7m.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	DFI Roads require a P1 Form for this outline application - upload to portal.
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Geological Survey NI (DfE)	3563 MUDC Planning. Land between 19 and 21 Killyneill Road Dungannon.pdf
Statutory Consultee	Historic Environment Division (HED)	

### 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	
<b>Summary of Issues</b>	
<b>Characteristics of the Site and Area</b>	
<p>The application site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. Across the road from the site are agricultural fields and there are no other dwellings. To the east of the site is a single storey dwelling and to the west of the site is a two-storey dwelling at No.19 Killymeal Road. The site itself is a portion of the garden area of No.19 which is a listed building. The site is covered in vegetation and trees and there are established trees along the roadside boundary.</p>	
<b>Description of Proposal</b>	
<p>This is an outline application for proposed erection of dwelling and domestic garage in a gap site at land between 19 and 21 Killyneill Road, Dungannon.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b>	
<b><u>Policy Consideration</u></b>	
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p>	
<b>Representations</b>	
<p>Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, 2no. third-party representations have been received.</p>	
<p>Letters of objection were received on the 27<sup>th</sup> September 2023 and 23<sup>rd</sup> February 2024 from the owner/occupier of 21 Killyneill Road, which is located east of the application</p>	

site.

The following points have been raised in the objection letters.

1. The site is located between No.21 and the curtilage of a listed building at No.19. It is stated a dwelling on this site would change the character of the area and this area was always green belt. In rebuttal, the site is not located within the greenbelt as defined in the Dungannon and South Tyrone Area Plan 2010. The introduction of PPS21 resulted in Greenbelts being removed and a new suite of policies for development in the countryside. The integration of the dwelling and garage will be considered in the planning assessment in CTY 13 and CTY 14 in PPS 21.
2. The access road is narrow and dangerous with traffic going up and down frequently. As the proposal involves a new access to the public road DFI Roads will be consulted as part of the proposal. In rebuttal Roads are content with the proposal that a safe access can be created onto the road.
3. A red line boundary is drawn inside my field ignoring the hedge boundary of my field. The agent submitted land registry maps on the 4<sup>th</sup> March 2024 demonstrating the applicant owns the portion of land in the adjacent field to the west of No.21.
4. From initial drawings submitted the siting of the proposed dwelling has been moved closer to my curtilage, the boundary of the field which I own. It is stated the proposed dwelling moving closer to my house will be an infringement of my privacy. In rebuttal, the siting of the proposed dwelling was moved further east on the application site at the request of HED who considered the proposed siting would impact on the character of the listed building. There is a row of established trees along the eastern boundary of the field where the dwelling will be located and it has been shown these will be retained. I am content the retention of the existing trees along the eastern boundary and the separation distance of 36m from the east gable wall of the proposed dwelling to the west boundary of No.21's curtilage is sufficient to not create unacceptable loss of privacy to No.21.

### **Planning History**

There are no planning histories at the application site.

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

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

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

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

The site is 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 in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes 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 to fill a gap site CTY 8 is the relevant policy in the assessment.

### **CTY 8 – Infill Dwellings**

The application site is a portion of land within the listed building curtilage of No.19 Killyneill Road which is a listed building. I am content the dwelling at No.19 has a frontage to the road as the dwelling’s garden area fronts to the road. Further west there is a dwelling and shed at No.19A and No.19 with a direct frontage to Killyneill Road. East of the site is a dwelling at No.21 and I consider the dwelling has a frontage to the road as shown in figure 1 below. I am content there is a substantial frontage with three or more buildings to the public road.



Figure 1 – snapshot of the buildings along the road.

The application site has a roadside frontage of 75m, No.19 and No.19A have a frontage of 96m. No.21 has a frontage of 42m. There are varying frontages along this stretch of road, but I am content the application site can only accommodate up to two dwellings. The proposal is for only one dwelling at the site and in an initial drawing submitted by the applicant the proposed dwelling was sited to the west of the site. In their consultation response HED stated they wanted the proposed dwelling sited to the east of the site to not conflict with the listed building. The agent has moved the dwelling to the western portion of the site and HED are content with the proposal. The site uses a portion of a larger field to the east, but I consider it is appropriate to retain the trees along the boundary of the field. The remaining field is used as an access to an agricultural field and I consider the frontage is small and not in accordance with other frontages along the row so I am content a dwelling could be accommodated at the field to the east. Considering HED's comments on siting and access to the adjacent field I am content three dwellings could not be built at this site. I am content the proposed site has a frontage which is in character with the surrounding frontages. The site has a large plot size in comparison with neighbouring plots, but the curtilage can be restricted to match adjacent plots.

I am content this proposal meets all the criteria in CTY 8.

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

The application site is a portion of land within the listed building curtilage of No.19 Killyneill Road and the site has a sloping topography. The site is mainly covered in established trees and vegetation interspersed with an area of grassland. There are other dwellings and outbuildings along this stretch of road so I am content the proposed dwelling would read with these other buildings in critical views. I am content a dwelling in this location would not be a prominent feature in the landscape.

There are established trees along all boundaries of the site, and I consider it is appropriate to retain as many trees as possible. However, I acknowledge that several



trees along the roadside boundary will need to be removed to achieve the visibility splays.

As this is an outline application the design of the dwelling and garage will be considered at the reserved matters stage.

Overall, I am content that the dwelling and garage will integrate into the landscape at the site.

### **CTY 14 – Rural Character**

The proposed dwelling is set back from the public road on a sloping site with a 7m ridge height so I am content the proposal will not be a prominent feature in the landscape. I consider a dwelling in this location would not have a detrimental impact on rural character.

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

#### **Policy BH 11 – Development affecting the setting of a listed building.**

The site is within the listed building curtilage of Killyneill House HB13/20/037 which is a Grade B1 listed building. Historic Environment Division were consulted as the statutory authority on listed buildings. In their initial consultation response dated 31<sup>st</sup> August 2023 HED stated they had concerns about the impact of the proposal on the listed building. Subsequently an indicative layout and section throughout the site was submitted. In further discussions HED requested the siting of the proposed dwelling was moved further east to No.21 Killyneill Road so the dwelling will not become a competing focus with the listed building. In their consultation response dated 24<sup>th</sup> November 2023 HED stated they were content with the proposal following the amended plans submitted.

HED stated in their consultation response that the dwelling should have a ridge height lower than 5.7m which would respect the house types along the row. In discussions with the agent, it was stated that the applicant wanted a two-storey dwelling at the site and HED considered a single storey dwelling would not detract from the character of the listed building. A revised drawing was submitted to HED to demonstrate how a one and half or two storey dwelling would fit along the row. HED in their response dated 19<sup>th</sup> February 2024 were content with a dwelling with a ridge height of 7m.

The design of the dwelling will be considered at the reserved matters stage.

I am content the use as a dwelling will not have an unacceptable impact on the character of the surrounding area.

Overall, I am content the proposal meets all the criteria in BH 11.

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

#### **AMP2 – Access to Public Roads**

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

DFI roads were consulted as the proposal involves a new vehicular access to the public

road. Roads were content with the proposal subject to visibility splays of 2.4m x 70m in both directions and 70m forward sight distance. The objector has raised issues about road safety and the impact of new access. Roads stated they have considered the representation and are content that a new access will not impact on road safety.

### **Other Considerations**

I have checked the statutory map viewers, and I am content there are no other ecological, built heritage or flooding issues at the application site. Geological Survey confirmed the site is not within an area of abandoned mines.

### **Summary of Recommendation:**

Approve is recommended

The proposal is recommended for approval as it meets all the criteria in CTY 8, CTY 13 and CTY 14 in PPS 21 Sustainable Development in the Countryside.

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

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

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

#### **Condition 3**

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

Reason: To ensure the dwelling integrates into the landform.

Condition 4

The dwelling and garage hereby approved shall be sited in accordance with the details shown on drawing No. 02 Rev 3 date received 07 FEB 2024.

Reason: To protect the character of the listed building.

Condition 5

The dwelling hereby permitted shall have a ridge height not exceeding 7 metres above finished floor level and shall be designed in accordance with 'Building on Tradition' Design Guidance.

Reason: To ensure the proposal is in keeping with the character of the area.

Condition 6

The proposed dwelling shall have a traditional pitched roof profile.

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

Condition 7

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 70m in both directions and 70m forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

Condition 8

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

Reason: In the interests of visual amenity.

Condition 9

The existing natural screenings of the site, as indicated on approved drawing 02 Rev 3 date received 07 FEB 2024 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

**Signature(s):** Gillian Beattie

**Date:** 19 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	17 August 2023
<b>Date First Advertised</b>	28 August 2023
<b>Date Last Advertised</b>	28 August 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  19A Killneill Cottage Killyneill Road Dungannon Tyrone BT71 6LL</p> <p>The Owner / Occupier  21 Killyneill Road Dungannon BT71 6LL</p> <p>The Owner / Occupier  28 Killyneill Road Dungannon Tyrone BT71 6LL</p> <p>The Owner / Occupier  24 Killyneill Road Dungannon Tyrone BT71 6LL</p> <p>The Owner / Occupier  43 Killyneill Road Dungannon Tyrone BT71 6LL</p> <p>The Owner / Occupier  19 Killyneill Road Dungannon Tyrone BT71 6LL</p>	
<b>Date of Last Neighbour Notification</b>	8 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1978/0217  Proposals: BUNGALOW  Decision: PR  Decision Date:</p> <p>Ref: LA09/2023/0525/LBC  Proposals: Conversion and re-use of existing building to a dwelling  Decision: CG  Decision Date: 17-AUG-23</p> <p>Ref: M/1979/0107  Proposals: BUNGALOW  Decision: PR</p>	

Decision Date:

Ref: LA09/2023/0515/F

Proposals: Conversion and re-use of existing building to a dwelling

Decision: PG

Decision Date: 17-AUG-23

Ref: LA09/2023/0527/F

Proposals: Conversion and re-use of existing building to a dwelling

Decision: IE

Decision Date: 15-MAY-23

Ref: M/1978/0147

Proposals: LV O/H LINE

Decision: PG

Decision Date:

Ref: LA09/2022/1599/O

Proposals: Conversion and re-use of existing building to a dwelling

Decision: APPRET

Decision Date: 28-MAR-23

Ref: M/1974/0088

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: LA09/2023/0872/O

Proposals: Proposed erection of dwelling and domestic garage in a gap site under CTY8 of PPS21

Decision:

Decision Date:

Ref: M/1998/0465

Proposals: Change of use from store to granny flat, including alterations and extension

Decision: PG

Decision Date:

Ref: M/1975/0434

Proposals: SITE FOR SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: M/1974/008801

Proposals: ERECTION OF SUBSIDY BUNGALOW

Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
Historic Environment Division (HED)-  
Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-DFI Roads require a P1 Form for this outline application -  
upload to portal.  
Historic Environment Division (HED)-  
Geological Survey NI (DfE)-3563 MUDC Planning. Land between 19 and 21 Killyneill  
Road Dungannon.pdf  
Historic Environment Division (HED)-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02 Rev 3

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

Not Applicable



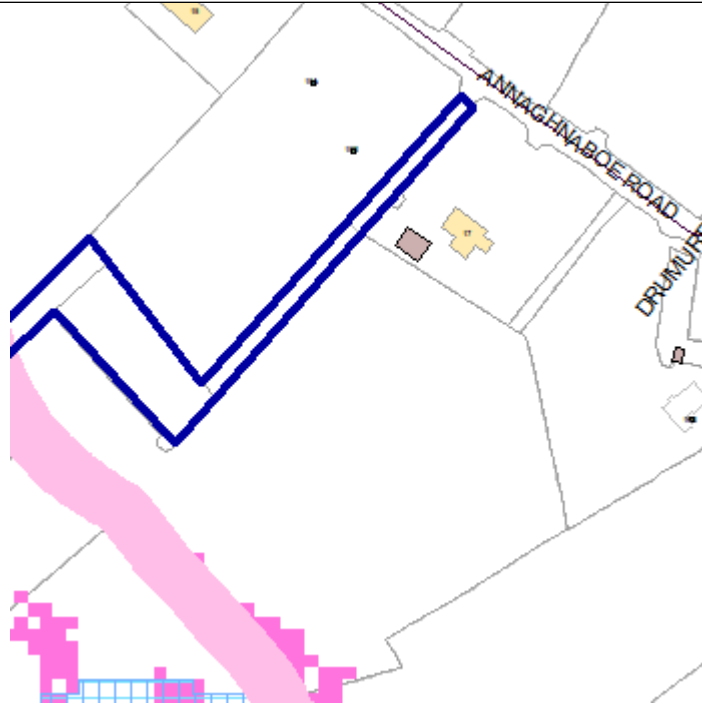
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.10
<b>Application ID:</b> LA09/2023/0922/F	<b>Target Date:</b> 15 December 2023
<b>Proposal:</b> Retention of cattle shed and hard standing yard area	<b>Location:</b> Lands Located Approx 100M SouthWest of 17 Annaghoboe Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Edward Dorman 17 Annaghoboe Road Coalisland BT71 4QH	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>  No third-party representations have been received.  The proposal is for the retention of an agricultural shed, and I consider does not meet all the criteria in CTY 12 - Agricultural and Forestry Development in PPS 21 - Sustainable Development in the Countryside.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Shared Environmental Services	LA09-2023-0922-F - FIR 1 12-12-23.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response.pdf
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0922-F.docx
Statutory Consultee	DFI Roads - Enniskillen Office	2023 0922 Coversheet.docx 2023 0922 Checklist.docx
Statutory Consultee	NIEA	PRT LA09-2023-0922-F ERR.PDF

### Representations:

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

## **Summary of Issues**

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

The application site is within the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character and the predominant land uses are agricultural fields, groups of farm buildings and dwellings on single plots. There is a lot of development pressure in the immediate area from the construction of single dwellings. To the northeast and abutting the site boundary is a garage and there are three large two storey dwellings along the roadside frontage. The site is accessed along a laneway off Annaghnaeboe Road. The site comprises of a gravel yard area and large shed which has an agricultural appearance.

### **Description of Proposal**

This is a full application for retention of cattle shed and hard standing yard area at Lands Located Approx 100M SouthWest of 17 Annaghnaeboe Road, Coalisland.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

LA09/2016/1094/F - Proposed agricultural cattle shed - Adjacent To 17 Annaghnaeboe Road, Coalisland – permission refused 07.02.2018. Same application site but different applicant.

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

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

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

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** The SPPS gives provision for Agriculture and Forestry Development subject to a number policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 12 of PPS 21.

### **PPS 2 – Natural Heritage**

This site is within 7.5km of Lough Neagh/Lough Beg Ramsar and Peatlands SAC and Shared Environmental Services have confirmed the site is hydrologically linked to Lough Neagh and Lough Beg SPA/Ramsar.

Shared Environmental Services responded on the 12<sup>th</sup> December 2023 stating clarification on the numbers and types of livestock (sheep and cattle) to be housed and the duration of housing. Also, SES require details of how manure will be managed.

NIEA responded on the 3<sup>rd</sup> October 2023 stating they had insufficient information to enable DAERA to make a full assessment of the environmental impacts of the proposal.

At the time of writing further information has not been received and has not been requested as the proposal does not meet the principle of development in CTY 12.

### **Planning Policy Statement 21**

#### **Policy CTY 12 – Agricultural and Forestry Development**

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside PPS21 is the overarching policy for development in the countryside. Policy CTY 12 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore, it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years.

DAERA confirmed in their consultation response that the farm business ID as stated on the P1C form has only been allocated since the 11<sup>th</sup> February 2022. It is also stated the applicant is a category 3 farmer and not entitled to claim DAERA farm payment and no

subsidies have been claimed by the applicant within the past 6 years. An email was sent on the 27<sup>th</sup> November requesting further information such as herd books and further details about active farming at the holding. A supporting statement was received by email on the 10<sup>th</sup> January 2024 to demonstrate how the farm holding has been active and established for the past 6 years. It is stated there has been no movement of animals for the past 6 years. Mr Edward Dorman built the shed which is the subject of this application to re-establish a herd at the farm holding. Mr Dorman states he has no cattle but intends to start rearing beef cattle and has purchased 3 goats, 2 ponies and 3 pigs. A copy of a flock list has been submitted for 9 sheep and this book is registered to Patrick and Edward Dorman at 52 Moor Road Coalisland. In a supporting statement dated 24<sup>th</sup> October 2023 the applicant states that the farm business id is in both names for himself and his uncle.

Having assessed all the evidence, I consider the applicant has not been actively farming on the holding for the past 6 years so there is not an established farming holding in this application. The applicant has only had a DAERA number since 2022 and no other information has been submitted to demonstrate any other farming or maintaining the land in the past 6 years.

The applicant has shown evidence of sheep purchased in June 2022, so I consider he is actively farming the land at present.

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

**It is necessary for the efficient use of the agricultural holding.**

The applicant submitted supporting statements on the 19<sup>th</sup> and 24<sup>th</sup> October 2023 to demonstrate why the building is necessary. During my site visit I was unable to gain access to the inside of the shed but subsequently the agent sent in photographs. These photos showed the inside of the shed divided into pens down one side and sheep inside the pens and silage. But the applicant has stated in the description the building is for the retention of a cattle shed.

In the supporting statement dated 26<sup>th</sup> October the applicant stated that his uncle and himself are both names on the farm business Id. A copy of a letter from DAERA confirmed that Mr Patrick Dorman and Mr Edward Dorman are both named on the category 3 business ID and there is a sheep and goats movement book associated with this ID. A copy of a flock list has also been provided which shows 9no sheep were registered to the flock on the 6<sup>th</sup> June 2022. The main purpose of the building is to house cattle and sheep as the applicant states he intends to start rearing beef cattle on adjacent lands in the near future. In a supporting statement dated 9<sup>th</sup> January 2024 the applicant states that costs were the reason for the construction of the large shed. This was further reiterated in a supporting statement dated 14<sup>th</sup> February 2024 where it is claimed Mr Dorman purchased the second hand building a reduced price with the long-term intentions to buy cattle.

I do not consider the shed is necessary for the farm holding as it is stated the applicant

currently only has 9 sheep. There is currently no planning policy in PPS 21 for the first agricultural building on the farm holding.

**It is appropriate to the location in terms of character and scale.**

The site is set back from the public road at the end of an existing laneway and there are limited critical views of the shed in both directions. The shed has the appearance of an agricultural building as shown in figure 1 below with green sheeting on the roof and upper section and ground wall on the lower section. I am content the shed is appropriate to the location in terms of character and scale.



Figure 1 – Image from the site visit of the agricultural shed.

**It visually integrates into the local landscape and additional landscaping is provided as necessary.**

As stated earlier in the assessment the shed is set back from the public road and there are other buildings in the immediate vicinity so I am content the proposal will integrate into the landscape.

**It will not have an adverse impact on the natural or built heritage.**

The site is not within the vicinity of any archaeological sites or listed buildings, so I have no concerns in this regard.

**It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.**

Environmental Health responded on the 19<sup>th</sup> October 2023 stating that they had no objections to the proposal subject to the minimum 75m between a dwelling and a farm

building being achieved. The shed to be retained is 131m from the associated farm dwelling and 101m from the nearest third-party dwellings at No. 15A and 15B. I am content this criterion has been met and the proposal will not have an unacceptable impact on neighbouring amenity through noise or smells.

**In the case where a new building is proposed the following points should be met:**

**- There are no suitable existing buildings.**

The applicant has stated in his supporting statements that he has no other buildings on the farm holding. In a supporting statement dated 14<sup>th</sup> February 2024 the farm holding is jointly owned by the applicant Edward Dorman and his uncle Patrick Dorman. There was a farm shed on the lands owned by Mr Dorman's father and uncle but this is now out of Mr Edward Dorman's control.

**- The design and materials are sympathetic to the locality.**

As the shed has the appearance of an agricultural building, I am content the design and materials are characteristic of a rural building and will not detract from the character of the area.

**- It is sited beside existing farm buildings.**

The applicant lives at No. 17 Annaghnaaboe Road which comprises of a two-storey dwelling and garage. These buildings are on the farm holding and are 131m from the shed to be retained. I consider the proposal does not sit beside existing buildings on the farm and the applicant has stated he has no other agricultural buildings.

CTY 12 does allow for an exception within the policy provided there are no other existing farm buildings and there are health and safety reasons or where it is essential for the efficient functioning of the farm business.

The applicant has stated there are no other existing farm buildings and the only buildings on the farm are his dwelling and garage at No. 17. However, the policy states the proposal should be sited beside existing farm buildings. No health and safety reasons have been provided and the applicant has stated there are no existing farm buildings on the holding.

I consider the proposal is not essential for the functioning of the farm business as the applicant wishes to farm his agricultural land. He has bought sheep, ponies and pigs and has obtained a DAERA number in 2022. However, the applicant has no farm buildings to house the animals in, especially as he stated he wishes to farm cattle.

Having assessed all the evidence submitted I consider the applicant does not meet all the criteria in CTY 12 for an agricultural building.

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

The site is a portion of land to the rear of three dwellings with a roadside frontage to Annaghnaaboe Road and is accessed via an existing laneway. The predominant land

uses in the area are residential, farm buildings interspersed with light industrial uses in the countryside. There are limited critical views of the shed from the roadside and overall, I consider the shed and hard standing area to be not a prominent feature in the landscape. There is established hedging along the northeast boundary and other development around the site provides a degree of enclosure. The shed has the appearance of an agricultural building, and I am content the proposal does integrate into the landscape. I consider the shed will not have an unacceptable impact on rural character due to the limited public views.

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

#### **FLD 3 – Development and Surface Water (Pluvial) Flood Risk outside flood plains**

The area of hard standing to be retained is 1679sqm and the shed is 247sqm. Therefore, the proposal would need to meet the criteria in FLD 3 that a drainage assessment would be required for a change of use involving new buildings and/or hard standing exceeding 1000sqm in area. In this instance a drainage assessment is not required as the yard area is a permeable surface and has not been tarmacked or concreted.

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

#### **AMP2 – Access to Public Roads**

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

The applicant is retaining a new access which has been created onto the public road so DFI Roads were consulted and were content with the access.

### **Other Considerations**

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

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal as it does not meet all the criteria in CTY 12 – Agricultural and Forestry Developments in PPS 21.

### **Refusal Reasons**

**Reason 1**

Contrary to CTY 12 - Agricultural and Forestry Developments in PPS 21 - Sustainable Development in the Countryside in that the development does not meet the following criteria in CTY 12.

1. It has not been demonstrated there is an established agricultural holding for the past 6 years.
2. The shed is not sited beside existing farm buildings on the farm holding.
3. It has not been demonstrated the shed is essential for the efficient functioning of the business or there are demonstrable health and safety reasons.

**Signature(s):** Gillian Beattie

**Date:** 21 March 2024



<b>ANNEX</b>	
<b>Date Valid</b>	1 September 2023
<b>Date First Advertised</b>	12 September 2023
<b>Date Last Advertised</b>	12 September 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 17 Annaghoboe Road Coalisland BT71 4QH The Owner / Occupier 15B Annaghoboe Road Coalisland BT71 4QH The Owner / Occupier 16 Annaghoboe Road Coalisland BT71 4QH	
<b>Date of Last Neighbour Notification</b>	4 September 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2015/1156/O  Proposals: Site for 2 no Infill Dwellings  Decision: PG  Decision Date: 17-JUN-16</p> <p>Ref: LA09/2023/0922/F  Proposals: Proposed retention of cattle shed and hard standing yard area  Decision:  Decision Date:</p> <p>Ref: LA09/2020/1320/F  Proposals: Detached domestic garage, general domestic, garden &amp; tool store  Decision: PG  Decision Date: 23-MAR-21</p> <p>Ref: M/2002/1132/RM  Proposals: Proposed one and a half storey dwelling  Decision: PG  Decision Date: 28-NOV-02</p>	

Ref: M/2001/1075/O

Proposals: Site for one and a half storey dwelling.

Decision: PG

Decision Date: 01-FEB-02

Ref: LA09/2016/1094/F

Proposals: Proposed agricultural cattle shed

Decision: PR

Decision Date: 07-FEB-18

Ref: M/2012/0262/O

Proposals: Proposed new dwelling and domestic garage

Decision: PR

Decision Date: 26-NOV-12

Ref: LA09/2017/1749/RM

Proposals: Erection of two dwellings

Decision: PG

Decision Date: 15-MAY-18

Ref: M/2005/0279/O

Proposals: Proposed Dwelling & Domestic Garage

Decision:

Decision Date:

### **Summary of Consultee Responses**

Shared Environmental Services-LA09-2023-0922-F - FIR 1 12-12-23.pdf

Environmental Health Mid Ulster Council-Planning response.pdf

DAERA - Omagh-LA09-2023-0922-F.docx

DFI Roads - Enniskillen Office-2023 0922 Coversheet.docx2023 0922 Checklist.docx

NIEA-PRT LA09-2023-0922-F ERR.PDF

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2023/1034/O	<b>Target Date:</b> 18 January 2024
<b>Proposal:</b> Off-site replacement dwelling, garage and associated site works	<b>Location:</b> Lands adjacent to and NE of 43 Annaghone Rd, Stewartstown, Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Matthew Leonard 43 Annaghone Rd Stewartstown Dungannon BT71 5PL	<b>Agent Name and Address:</b> Mr Simon Black 164 Tirnascobe Road Richhill BT61 9RF
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	780179 - Final reply.pdf
Non Statutory Consultee	Geological Survey NI (DfE)	3593. CCG Planning. Lands to rear of 78 Glen Road Glenariffe Cushendall BT44 0RG.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the rural countryside, outside any defined settlement limit identified in the Cookstown Area Plan 2010, approx. 1km east of the Tullaghogue and approx. 2km northwest of Stewartstown (see Fig 1, below).



Fig 1: Site outlined red



Fig 2: Site outlined red.

The site is an irregular shaped plot comprising a single storey dwelling and a neighbouring field. It is set well back from and accessed off the Annaghone Road via a concrete lane bound to both sides by a mix of mature hedgerow vegetation.

The dwelling (see Figs 3 & 4, below), which is overgrown and unoccupied, sits immediately adjacent and fronting onto the lane it is accessed off. It has a simple rectangular shaped floor plan and a pitched roof construction that extends over a small

front projection to its west side and provides the property with a small porch over its front door. The dwelling has a small, sloped roof shed extension to its east gable. The shed is enclosed by walls to its sides and rear but open / gate to its front. Finishes to the dwelling include a mix of stone, brick and rendered walls; dark roof tiles / slates; a mix of pvc and wood window frames; and a hardwood door.



Figs 3 & 4: Front and rear elevation of dwelling on site, respectively.

The neighbouring field, which is accessed to the east side of the dwelling via an agricultural gate (see Fig 5, below) off the lane serving the site, is enclosed by a mix of post and wire fencing, mature hedging, and trees.



Fig 5: Agricultural gate into field neighbouring the dwelling on site to be replaced.

Views of the site from the surrounding public road network will be limited and long distance to its set back from the public road, the undulating topography of the area; the vegetation and development bounding the site; and vegetation and development in the wider vicinity all helping to enclose and screen it. As seen in (Figs 6-9, below) long distance views of the site exist on the southern approach to the site access along the Annaghone Road from a point passing the Annaghone Road and Templereagh Road junction; from the southeast from the Templereagh Road; and from the northwest from the Annaghone Road. The landform generally falls from west to south through the site and beyond.



Fig 6 & 7: View of site on the southern approach to the site access along the Annaghone Road from a point passing the Annaghone Road and Templereagh Road junction.



Fig 8: View of site from the southeast from the Templereagh Road.





Fig 9: View of site from the northwest from the Annaghone Road.

The immediate area surrounding the site is typically rural in nature comprising undulating agricultural lands interspersed by single dwellings, ancillary building, and farm groups. The lane serving the site also serves no. 43 Annaghone Road, a detached single storey dwelling located on lands immediately southwest of the site; and a detached two storey dwelling bound by a number of ancillary farm buildings and sheds located approx. metres east of the site, at the end of the lane.

### **Description of Proposal**

This is an outline planning application for an off-site replacement dwelling, garage, and associated site works. The dwelling to be replaced is located on lands adjacent to and northeast of no. 43 Annaghone Road Stewartstown Dungannon. The replacement dwelling proposes to utilise the existing dwelling's access onto Dungannon Road.

It is noted that the current proposal is an amended proposal from that originally proposed at the outset of this application. The current proposal was sought and received as the original proposal / site location plan took in additional lands further to the south of the current site adjacent no. 47 Templereagh Road whereby the applicant sought to site the replacement dwelling however these lands were significantly removed from the dwelling to be replaced and located within a floodplain (see Fig 10, below). Accordingly, Planning considered the original proposal contrary to Policy CTY 3 of PPS21 Sustainable Development in the Countryside as sufficient lands existed adjacent the building to be replaced to accommodate a replacement dwelling; and Policy FLD 1 of PPS 15 Planning and Flood Risk as it did not meet the exceptions test as the proposal was not replacing a building already in the flood plain but replacing a building not in the flood plain.

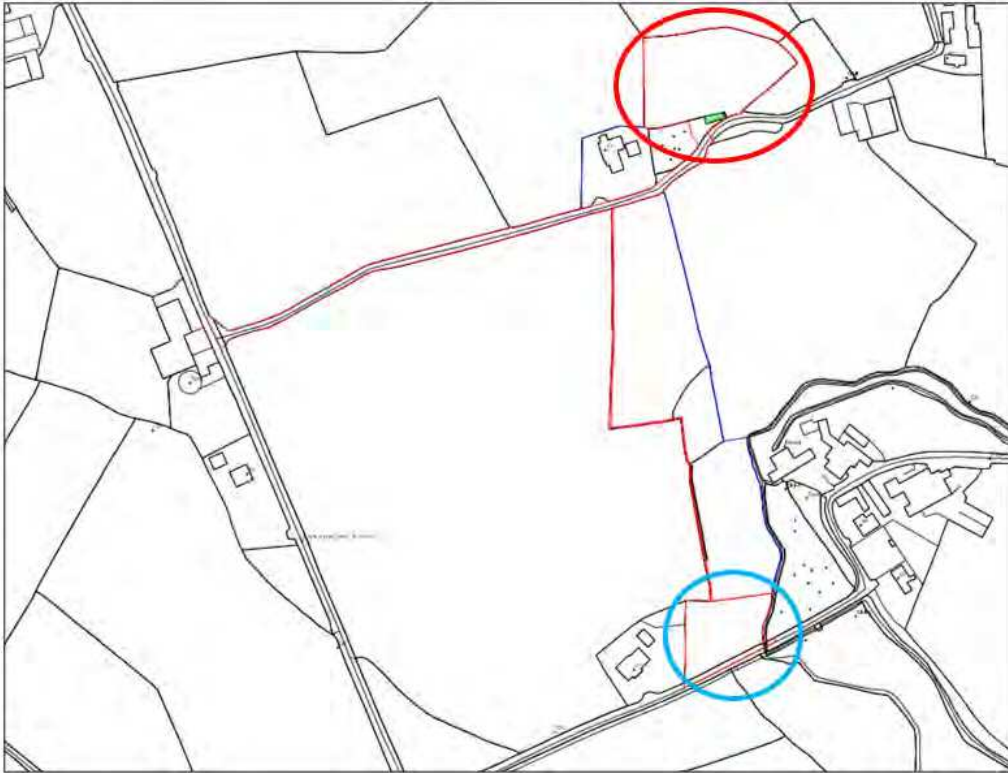


Fig 10: Location of current proposal circled red; and location of initial proposal circled blue.

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

### **Policy Consideration**

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

### **The following documents provide the primary policy context and guidance for the determination of this application**

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 2: Natural Heritage

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 15: Planning and Flood Risk

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

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

### **Planning History**

- I/1997/0055 - Site for dwelling - Annaghone Road Stewartstown - Granted 17<sup>th</sup> March 1997
- I/1997/0432 - Dwelling and garage - Annaghone Road Stewartstown - Granted 17<sup>th</sup> November 1997

The application above relates to lands containing no. 43. Annaghone Road, a detached single storey dwelling located on lands immediately southwest of the site. The initial application was an outline application with no subsequent reserved matters application and the second application was a full application with no conditions attached relating to the any existing dwelling to be replaced.

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing two representations of objection were received, to the original proposal submitted, from Ms Valerie Atkinson the owner / occupier of no. 47 Templereagh Road, a dwelling located approx. 325 metres to the south of the current site. The initial representation received on the 23<sup>rd</sup> October 2023 set out the reasons for objection and the second received on the 31<sup>st</sup> October 2023 provided supplementary pictures and videos of flooding referred to in the initial representation.

Key issues raised:

1. Applicant wishes to keep the existing building as a garden store, as such why not build closer to their property.
2. Applicant wishes to come out onto the Templereagh Road as it would be safer than the access off the Annaghone Road to existing building but disagrees.
3. Application form stated no need for a flood risk assessment but disagrees. She has lived in the adjacent property approx. 20 years and the site floods every winter due to the adjacent river and a trench next to her boundary floods into her garden. Fields on the opposite side of the road also flood and the water comes across the road leaving the bottom of the site completely underwater. Fears someone buying site unaware of flooding with site completely underwater twice in the past five years. Waterways attempted to fix fields across the road twice including this summer. Waiting to see if works but hasn't in past.
4. Application form stated no need for a drainage assessment but raises concern that building next to her property with inadequate drainage would potentially push water flooding on site further into her property.
5. Enjoys peace and quality of the countryside including her garden, bees, and privacy and application notification has caused stress and considers applicant has other options on land around the building to be replaced.
6. Requested Planning check if no. 43 Annaghone Road, the dwelling adjacent the building proposed to be replaced, was approved as a new dwelling or a replacement dwelling. As if approved as replacement it may have been as a

replacement for the building the applicant is seeking to replace now.

As detailed in the 'Description of Proposal' further above the current proposal is an amended proposal from that originally proposed at the outset of this application. The current proposal was sought and received as the original proposal / site location plan took in additional lands further to the south of the current site adjacent Ms Atkinson's property no. 47 Templereagh Road whereby the applicant sought to site the replacement dwelling however these lands were significantly removed from the dwelling to be replaced and located within a floodplain as detailed by Ms Atkinson above and confirmed by Rivers Agency. Accordingly, Planning considered the original proposal contrary to Policy CTY 3 of PPS21 Sustainable Development in the Countryside as sufficient lands existed adjacent the building to be replaced to accommodate a replacement dwelling; and Policy FLD 1 of PPS 15 Planning and Flood Risk as it did not meet the exceptions test as the proposal was not replacing a building in the flood plain but replacing a building not in the flood plain. I am content the revised proposal that now adheres to Policy CTY 3 and Policy FLD1 addresses the issues raised by the Ms Atkinson. The replacement dwelling is to be sited beside the dwelling it is to replace and will use an existing access onto the public road; it is to be sited outside of the flood plain; and planning history checks indicate the building to be replaced has not been previously replaced (see 'Planning History' further above). The revised proposal was re-advertised, and re-neighbour notification carried out and no further representations have been received.

### **Consultations**

1. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines. GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI's "Shafts and Adits Database" indicates that the proposed site is located greater than 100m from any known abandoned mine workings.
2. DfI Rivers Agency were consulted at the outset of this application as the site had initially included additional lands / alternative site to the south of the current site, adjacent no. 47 Templereagh Road, within the floodplain. DfI Rivers Agency responded under Planning Policy Statement 15: Planning and Flood Risk, Policy FLD1: Development in Fluvial Flood Plains that Flood Maps (NI) indicate that the alternative site lies partially within the 1 in 100 year fluvial flood plain. In accordance with policy development will not be permitted within the 1 in 100 year fluvial flood plain unless the Planning Authority deems it to be an 'exception' or of overriding regional or sub-regional importance as defined in policy. Where the principle of development is accepted by the Planning Authority, the applicant is required by policy to submit a flood risk assessment (FRA).
  - As detailed further above in 'Description of Proposal' the additional lands / alternative site no longer forms part of the current proposal as it was considered contrary to Policy CTY 3 of PPS21 Sustainable Development in the Countryside as sufficient lands existed adjacent the building to be replaced to accommodate a replacement dwelling; and Policy FLD 1 of PPS 15 Planning and Flood Risk as it did not meet the exceptions test as

the proposal was not replacing a building in the flood plain but replacing a building not in the flood plain. Flood Maps NI indicate the currently proposed site is not subject to flooding.

3. DFI Roads were consulted at the outset of this application as the site had initially included additional lands / alternative site to the south of the current site, adjacent no. 47 Templereagh Road, which required a new access off the Templereagh Road. Whilst DfI Roads had no objections to the initial proposal / alternative site subject to standard conditions and informatives the proposal was subsequently revised as detailed further above in 'Description of Proposal', so the additional lands / alternative site no longer formed part of the current proposal. Re-consultation with DfI Roads was not considered necessary in relation the current site / revised proposal as the replacement dwelling is to be served via the existing unaltered access onto the public road serving the existing dwelling to be replaced and the proposal will not result in the intensification of use of this access as defined in DCAN 15. An informative can be attached to any subsequent decision to advise the applicant / developer that the existing access may be substandard therefore it may be in their interests and that of other road users to take measures to upgrade the access.

### **Key Policy Considerations**

Cookstown Area Plan – The site is located in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland – Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

Planning Policy Statement 21: Sustainable Development in the Countryside – Is the overarching policy for development in the countryside. It provides certain instances where the development of a dwelling is considered acceptable in the countryside subject to criteria. These instances are listed in CTY1 of PPS21. It is my opinion the current proposal falls under one of these instances, a replacement dwelling in accordance with Policy CTY3.

Policy CTY3 – Replacement Dwellings states planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

I consider there is a replacement opportunity on site under Policy CTY3. That the building to be replaced does exhibit all the essential characteristics of a dwelling in terms of its size, scale, design and finish as detailed and seen further above in Figs 3 & 4 in the 'Characteristics of the Site and Area' and all its external structural walls are intact.

Policy CTY3 encourages the retention and sympathetic refurbishment, with adaptation if necessary, of vernacular dwellings in preference to their replacement. Policy CTY3 stipulates proposals involving the replacement of such dwellings will be assessed as

follows:

- if the dwelling makes an important contribution to the heritage, appearance or character of the locality planning permission will only be granted where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved.
- if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group.

I consider the dwelling on site vernacular as it displays a number of characteristics typical of such buildings i.e. it has a linear elongated rectangular floor plan, a narrow gable depth and a low proportion of void to mass in terms of windows to walls. That said in my opinion given its significant setback from the public road, overgrown and screened to views, I do not consider it makes an important contribution to the heritage, appearance or character of the locality and therefore content it be replaced. I am however content given the dwelling is vernacular, that it could be retained as ancillary accommodation to the replacement dwelling.

Further to the above Policy CTY 3 sets out a number of criteria that all replacement cases must meet to be permitted and I am content this proposal complies with all of them in that:

- Whilst this proposal seeks to increase and site the replacement dwelling outside of the existing property's curtilage in the neighbouring field, I consider this acceptable as the existing property has an extremely restricted curtilage in my opinion unable to accommodate even a modest dwelling by current day standards.
- I am reasonably content that subject to a suitably designed scheme coming forward under any subsequent reserved matters application with a ridge height no greater than 6.5m above finished floor level, similar to the neighbouring property at no. 43, it should integrate onto this site and into the surrounding landscape without having a visual impact significantly greater than the existing single storey dwelling. The new dwelling including garage will benefit from its location well set back from the surrounding public road network; the undulating topography of the area; the vegetation and development bounding the site; and vegetation and development in the wider vicinity all helping to enclose and screen it to views, which as detailed further above in 'Characteristics of the Site and Area' will be long distance and limited.
- A landscaping scheme to include additional planting can also be requested to further aid the integration of the dwelling into the landscape.
- As this is an outline application the details of the siting, size, scale and design of the dwelling would be reserved for further consideration under any subsequent reserved matters application. I believe a suitably designed scheme should integrate onto the site in accordance with CTY13 and with minimal disruption to the rural character of the area in accordance with CTY14.
- Given the proposal is for a replacement dwelling I am content all necessary

services are available or should be able to be provided.

- As detailed further above the dwelling is to be served via an existing unaltered access onto the public road. Consultation was not considered necessary with DfI Roads as this proposal will not result in intensification of use of the access as defined in DCAN 15. An informative can be attached to any subsequent decision to advise the applicant / developer that the existing access may be substandard therefore it may be in your interests and that of other road users to take measures to upgrade the access.
- Given the location and size of the site I am content subject to a suitably designed scheme coming forward under any subsequent reserved matters application adequate separation distances should be retained to ensure the amenity of neighbouring property no. 43 Annaghone Road is not impacted to any unreasonable degree in terms of overlooking or overshadowing from a replacement dwelling on this site. Additionally in the interests of residential amenity, the existing vegetation enclosing the site can be conditioned to be retained and a landscaping scheme sought for further consideration under any subsequent reserved matters application.

### **Other Policy and Material Considerations**

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked and identified no built heritage assets of interest or natural heritage features of significance on site.

**Taking all the above into consideration I would recommend the approval of this application.**

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

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

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

#### Condition 3

Upon occupation of the new dwelling hereby permitted the existing building, coloured green on the approved plan, on approved Drawing No. 01 REV.01 received 11 DEC 2023, shall no longer be used or adapted for purposes of human habitation and may only be used for the purposes specified in this permission or any other purpose incidental to the enjoyment of the approved dwelling house.

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

#### Condition 4

The dwelling hereby permitted shall have a ridge height not exceeding 6.5 metres above finished floor level and shall be designed in accordance with 'Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside'.

Reason: In the interest of visual amenity.

#### Condition 5

The depth of underbuild between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

#### Condition 6

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

Reason: In the interest of visual amenity.

#### Condition 7

The existing natural screenings of the site, as indicated in green, on approved Drawing No. 01 REV.01 received 11 DEC 2023 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of residential and visual amenity.

#### Condition 8

During the first available planting season following the occupation of the dwelling hereby



approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of existing mature trees and vegetation to be retained and measures for their protection during the course of development and details of a native species hedge to be planted along the western boundary of the site as indicated in yellow, on approved Drawing No. 01 REV.01 received 11 DEC 2023. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position in the next available planting season with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Informative 1**

The existing access may be substandard therefore it may be in your interests and that of other road users to take measures to upgrade the access.

**Signature(s):** Emma Richardson

**Date:** 28 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	5 October 2023
<b>Date First Advertised</b>	2 January 2024
<b>Date Last Advertised</b>	17 October 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 47 Templereagh Road Stewartstown Tyrone BT71 5PJ The Owner / Occupier 43 Annaghone Road Stewartstown Tyrone BT71 5PL</p>	
<b>Date of Last Neighbour Notification</b>	12 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1999/0333 Proposals: Bungalow and twin car-port Decision: PG Decision Date:</p> <p>Ref: I/1990/0269 Proposals: 11KV Rural Spur Decision: PG Decision Date:</p> <p>Ref: I/1997/0055 Proposals: Site for dwelling Decision: PG Decision Date:</p> <p>Ref: I/1997/0432 Proposals: Dwelling and Garage Decision: PG Decision Date:</p> <p>Ref: LA09/2023/1034/O</p>	

Proposals: Off-site replacement dwelling, garage and associated site works

Decision:

Decision Date:

### **Summary of Consultee Responses**

Rivers Agency-780179 - Final reply.pdf

Geological Survey NI (DfE)-3593. CCG Planning. Lands to rear of 78 Glen Road  
Glenariffe Cushendall BT44 0RG.pdf

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

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Block/Site Survey Plans Plan Ref: 03

Site Location Plan Plan Ref: 01 REV.01

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

Block/Site Survey Plans Plan Ref: 03 REV.01

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2023/1075/F	<b>Target Date:</b> 24 January 2024
<b>Proposal:</b> Conversion and reuse of a redundant farm building to provide a new single living unit	<b>Location:</b> Immediately to The rear of 25 Ballynahaye Road Cabragh Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Brian Mulgrew 53 Cranlome Road Cranlome Dungannon	<b>Agent Name and Address:</b> McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

There was one objection received in relation to the proposal. The concerns raised in this objection will be discussed later in the report, however the main concerns include: works have already commenced on site, a separate application for industrial shed and issues with using machinery late in the evening.

### Characteristics of the Site and Area

The site is located to the rear of 25 Ballynahaye Road, Cabragh. On site is an existing roadside bungalow which appeared to be unoccupied and a two storey stone outbuilding. At the time of the site visit, a scaffold had been erected around the stone building and renovation works were being carried to the building. The lands immediately north and east of the site are hatched blue, indicating ownership. The surrounding area is rural in nature, scattered with single dwellings and their associated outbuildings.

### **Description of Proposal**

Full planning permission is sought for the conversion and reuse of a redundant farm building to provide a new single living unit.

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

#### **Policy Consideration**

##### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 28 and 30 Ballynahaye Road. At the time of writing, one third party representations was received.

The concerns raised within this objection include:

- works have already commenced on site
- a separate application for industrial shed
- issues with using machinery late in the evening
- new access created

We would always advise against works being started before planning permission is granted and this is not in itself an offence. At the original site visit, it was evident that some works had already begun on site and I carried out a further site visit 27/03/2024 were works appeared to be fully completed at the site, see image 1 and 2 below and as such a retrospective condition will be attached if approval were to be forthcoming. I do note there is an ongoing enforcement case at this site which is noted below in the enforcement history section of the report. I cannot see history on this site relating to any proposed industrial shed as noted in the objection. That said, this application is solely for the conversion of existing building on site and does not relate to any industrial shed. With regard to machinery operating late in the evening, whilst neighbouring amenity is a planning consideration, noise associated with the construction phase of development is usually a temporary matter. The proposal shows one access, which Roads have been consulted on and are content with. The alleged new access referred to in the objection also appears to form part of the enforcement case and thus will be investigated by our enforcement team further if required.



***Image 1 – front elevation, photo from further site visit date 27/03/2024***



***Image 2 - rear elevation, photo from further site visit dated 27/03/2024***

Planning History

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

Enforcement History

LA09/2023/0017/CA - Alleged unauthorised change of use from agricultural to residential and the alleged creation of unauthorised accesses -

### Planning Assessment of Policy and Other Material Considerations

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

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

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping. It doesn't offer any change in policy direction with regards to replacement dwellings.

Policy CTY 4 of PPS21 states that planning permission will be granted to proposals for the sympathetic conversion, with adaptation if necessary, of a suitable building for a variety of alternative uses, including use as a single dwelling, where this would secure its upkeep and retention. It explains that due to changing patterns of rural life there are a range of older buildings in the countryside, including some that have been listed, that are no longer needed for their original purpose. These can include former school houses, churches and older traditional barns and outbuildings. The building that is the subject of this planning permission is an existing outbuilding. Whilst Policy CTY4 rules out the conversion of buildings of a temporary construction such as those designed and used for agricultural purposes, including sheds or stores, I am not of the view that the original building now converted would have represented this as it was a permanent building on site.

Any proposals will be required to be of a high design quality and to meet a number of criterion held within CTY 4. I am content that the building to be converted is an existing permanent structure (note screen grab from google street view shown below in image 3 – dated May 2009), thus complying with criterion (a). I consider that the proposal will enhance the form, character and architectural features, design and setting of the existing building by bringing it back into use and restoring it. I do not feel it will have an adverse



effect on the character or appearance of the area, rather it will further improve the quality and value of it.



***Image 3 – screengrab from google street view dated March 2009 showing permanent structure on site***

There is no extension proposed to the existing building. The only external changes to the building will be the fenestration and door arrangements and thus remain respectful to the existing scale and massing of the building. The closest third party residents are approx. 90m to the south-west of the existing building. I consider this separation distance, combined with the intervening farm buildings and the orientation of the new dwelling will all ensure the proposal will not adversely affect the amenities of these residents. The proposal is residential and thus criterion (e) is not applicable. All necessary services can be provided. DfI Roads have no concerns with the proposal prejudicing road safety or significantly inconveniencing the flow of traffic therefore I consider these criteria are met.

### **CTY 13 Design and Integration and CTY 14 Rural Character of PPS 21**

CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Given the set back location behind the existing dwelling the lack of critical views of it, I am satisfied this dwelling can be visually integrated into the surrounding countryside. The predominant character of this area is of single storey dwellings and associated outhouses and I believe this proposal is in keeping with this character. CTY 14 of PPS21 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. I consider the proposal complies with CTY 14.

DfI Roads were consulted on the application and have raised no concerns with the

access arrangement proposed, subject to condition. Amended plans were received which shows parking within the site and roads were re-consulted and again raised no concern with this.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

Reason: This is a retrospective application.

**Condition 2**

The vehicular access including visibility splays 2.4 x 70 metres and a 70-metre forward sight distance, shall be provided in accordance with Drawing No. 04A bearing the date stamp 01 March 2024 within 12 weeks from the date of this permission. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works.

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

**Signature(s):** Sarah Duggan

**Date:** 28 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	11 October 2023
<b>Date First Advertised</b>	23 October 2023
<b>Date Last Advertised</b>	23 October 2023
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier 28 Ballynahaye Road Ballygawley Tyrone BT70 2HN</p> <p>The Owner / Occupier 30 Ballynahaye Road Ballygawley Tyrone BT70 2HN</p>	
<b>Date of Last Neighbour Notification</b>	31 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: M/1991/4001 Proposals: Improvements to dwelling Decision: PDNOAP Decision Date:</p> <p>Ref: M/2012/0132/F Proposals: Proposed extension to existing free range poultry house and erection of 1 no additional feed bin Decision: PG Decision Date: 22-MAY-12</p> <p>Ref: M/2009/0550/F Proposals: Proposed free range poultry house to contain 6000 free range egg laying hens, generator store and feed bin. Decision: PG Decision Date: 18-SEP-09</p> <p>Ref: M/2012/0256/F Proposals: Overhead single phase commercial line on wooden poles (11/13539) Decision: PG Decision Date: 21-JUN-12</p>	

Ref: LA09/2023/1075/F

Proposals: Conversion and reuse of a redundant farm building to provide a new single living unit

Decision:

Decision Date:

Ref: M/1991/0057

Proposals: Extension to dwelling

Decision: PG

Decision Date:

Ref: M/1980/067601

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: M/1980/0676

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: M/1995/4003

Proposals: New Roof to Rear Return

Decision: PDNOAP

Decision Date:

Ref: M/2005/0621/F

Proposals: Proposed replacement dwelling.

Decision: PG

Decision Date: 25-NOV-05

Ref: M/2010/0514/F

Proposals: Proposed change of house type from that previously approved under ref no M/2008/0274/RM to provide rooms in roofspace including provision of a sun room to the side of dwelling.

Decision: PG

Decision Date: 08-SEP-10

Ref: M/2008/0274/RM

Proposals: Proposed dwelling.

Decision: PG

Decision Date: 19-MAY-08

Ref: M/2005/0424/O

Proposals: Proposed dwelling

Decision: PG  
Decision Date: 19-SEP-05

Ref: M/2004/0700/O  
Proposals: Proposed domestic dwelling & garage  
Decision:  
Decision Date:

Ref: M/1992/0279  
Proposals: Extension and improvements to Dwelling  
Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx  
DFI Roads - Enniskillen Office-Full Resp.docx

### **Drawing Numbers and Title**

Site Location Plan	Plan Ref: 01
Proposed Plans	Plan Ref: 02
Existing Plans	Plan Ref: 03
Roads Details	Plan Ref: 04A

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2023/1119/F	<b>Target Date:</b> 5 February 2024
<b>Proposal:</b> Replacement dwelling	<b>Location:</b> 40M South West of 38 Lisnamuck Road Tobermore
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Andrew Hopper 31 Draperstown Road Tobermore BT45 5QG	<b>Agent Name and Address:</b> CMI Planners 38A Airfield Road Antrim BT41 3SQ
<b>Executive Summary:</b> <p>This full application for a replacement dwelling is being presented before members as it is recommended for refusal.</p> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 3, 13 and 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 3 in that there is no structure that exhibits the essential characteristics of a dwelling.</p> <p>2 no. objections have been received to date. Issues raised include concerns regarding conflict with PPS 21, CTY 1 and 3 also PPS 3. Further concerns raised detail adjoining land ownership not being identified and ownership of the shared laneway including the right of way on existing laneway, increase in traffic flow and visibility splays. Furthermore, one objection details how the replacement in question was never a dwelling and has always been a byre/barn.</p> <p>Members should note, there has been four previous applications on this site, one of which proposed a dwelling and garage which went to appeal and was dismissed, one was refused permission which proposed variation of condition regarding visibility splays and two which were recommended for refusal and approved through deferral for a 'conversion' of existing building rather than a 'replacement dwelling'.</p>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### 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

Objection 1 was received on the 08/11/2023 and it raised the following concerns:

Issues raised primarily around the existing laneway stating the proposed development would cause destruction which would affect the laneway which is currently used for agricultural purposes, increase traffic flow. Issues also raised include right of way ownership and the objector stating he does not permit the applicant consent to create visibility plays as it is his land. The issues raised have been fully considered and as DFI Roads have considered the objection in the consultee comment provided.



Objection 2 was also received on the 08/11/2023 which raised the following concerns:

The objection received by No.36 stated 18 points which in summary raised concerns regarding right of way and shared laneway access, building in question never been a dwelling which in turn may be contrary to policy CTY3 of PPS21 and PPS3 regarding splays. Point 16 of the objection stated that the proposal would be contrary to PPS8 in that it would cause ribbon development if permitted, the objector also stated issues raised in previous applications on the site which they feel are still applicable. Moreover, the objector stated that the applicant stated in the application they do not own any adjoining land however they believe they own land to the south west of the site.

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

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is located approximately 1.35km northwest of the settlement limits of Tobermore and is identified as 40M southwest of 38 Lisnamuck Road, Tobermore. The site is accessed via a 83m private laneway from the main Lisnamuck Road. Given the distance from the public road, the site is limited from public view when travelling along the main road. Site boundaries consist of mature trees and hedgerow, with a new D rail timber fence proposed on all boundaries. With the exception of this northern boundary, the site is surrounded by agricultural fields. The wider surrounding environment predominately consists of agricultural fields and a scattering of single residential dwellings and associated garages.

### **Description of Proposal**

This is a full application for proposed replacement dwelling.

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

#### **Policy Consideration**

#### **Representations**

Four (4) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date, two third party representation has been received from the occupants of number 36 and 42 Lisnamuck Road.

#### **Relevant Planning History**

Reference: LA09/2019/1630/F

Proposal: This is a section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. This application seeks to vary condition 3 of the approval to which planning approval was

granted removing the need for a forward sight distance.

Location: 40M South West Of 38 Lisnamuck Road, Tobermore

Decision and Date: Permission Refused 07.10.2020

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Reference: LA09/2016/0889/F

Proposal: Proposed conversion of a redundant building to form one dwelling

Location: 40M South West Of 38 Lisnamuck Road, Tobermore Magherafelt

Decision and Date: Permission Granted 11.02.2019

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Reference: H/2009/0710/O

Proposal: Proposed conversion of existing building to dwelling house with associated extension and alterations.

Location: 40M South West Of 30 Lisnamuck Road, Tobermore, Magherafelt

Decision and Date: Permission Granted 23.05.2013

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Reference: H/2006/0916/O

Proposal: Site of proposed dwelling and garage

Location: Lands 80M South West Of No.38 Lisnamuck Road, Tobermore

Decision and Date: Appeal Dismissed

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

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside
  - CTY 1: Development in the Countryside
  - CTY 3: Replacement Dwellings
  - CTY 13: Integration and Design of Buildings in the Countryside; and
  - CTY 14: Rural Character

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

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

## **Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside**

The guide has been prepared to raise awareness of the importance of looking after the Northern Ireland countryside and how to achieve higher quality of sustainable development that will provide a basis to protect and enhance our rural assets. The guide will be used in accordance with all sustainable development in Northern Ireland countryside to understand the requirements of Planning Policy Statement 21. The document is used as a development management tool and will be used as a material consideration in the determination of planning applications for development proposals outside of settlement limits.

I am content that the proposed plans reflect the Building on Tradition guidelines for sustainable design in the countryside.

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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

## **Planning Policy Statement 21 – Sustainable Development in the Countryside**

### Policy CTY 1- Development in the Countryside

Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. In this instance the application is for a replacement dwelling and as a result the development must be considered under CTY 3 of PPS 21.

### CTY 3: Replacement Dwellings

CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy, all references to 'dwellings' will include buildings previously used as dwellings.

Firstly, it is my opinion that this building cannot be considered as a valid replacement opportunity. The planning history on this site would direct that the existing building has never been considered as a dwelling. H/2009/0710/O granted approval for the conversion of the existing building to dwelling house. More recently LA09/2016/0889/F was approved for the conversion of a redundant building to form one dwelling. This is still extant and holds some weight in the assessment of this application. Neither permission has been implemented. If it has been agreed to grant the conversion of a building to a dwelling how then can it also be considered for replacement.

From my site visit, it is apparent that the existing building on site has all four walls intact, though it does not exhibit the essential characteristics of a dwelling. It appears to be an old farm outbuilding / barn. The principle front elevation (eastern elevation) has three main entrances additionally there is a small annex attached to the southern elevation with a door attached. Upon site inspection it would appear one portion of the building has similar characterises to animal stalls, another door leads to a small area to which there is a small sink and shelving furthermore, the third area is open space with shelving and storage. There was no chimney nor fireplace upon internal inspection however there is an electrical meter box connected to the external wall.

Figure 1 (existing building taken on site visit 07.12.2023)



It is important to note that under policy CTY3 it states that 'buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy'.

The agent has been asked to amend the proposal to the conversion of an existing building to a dwelling however the agent requested to proceed with the application as a replacement. Further to this, the agent was requested to submit any evidence they had which would support the proposal but this has not been forthcoming.

I am of the opinion that this application is not a valid replacement opportunity therefore I have not assessed the application on the remaining policy tests of CTY 3 as it has not met the first test. I recommend this application be refused planning permission as the proposal fails to satisfy the criteria of Policy CTY 3.

#### CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that the proposed plans for the replacement dwelling will not be a prominent feature in the landscape. Proposed plans demonstrate that all existing hedging will remain unaffected. I am content the design of the building is a high quality design and is appropriate for the rural location. I am content the application meets policy CTY13.

#### CTY 14 - Rural Character

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural

character of an area. If approved I am already content that the building will not be a prominent feature in the landscape. It will not result in a suburban style build-up of development and it respects the traditional pattern of settlement in the area. Therefore I am content the proposal meets policy tests of CTY14.

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

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

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposed development involves the use of an existing unaltered access to the public road. If a replacement dwelling is acceptable in principle then the use of an existing access is not regarded as being an intensification of use of that said access and improvements to the access are only recommended. They can not be enforced through planning condition.

DFI roads were consulted to which they stated ‘DCAN 15 recommends 2.4 x 80 metre visibility splays in both directions with an 80 metre FSD with a possible reduction to 2.4 x 60 metres in exceptional circumstances.

It is not unreasonable to conclude that the applicant has submitted this application as a replacement dwelling in an attempt to gain an approval which does not require improvements to an access/provision of splays. The previous conversion approval on the site required access improvements taking in 3<sup>rd</sup> party lands, which according to an objector, the applicant will have no reasonable prospect of being gained. Notwithstanding this, it is my opinion that the proposal is not a valid replacement opportunity.

#### **Habitats Regulations Assessment**

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

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

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that there is no structure that exhibits the essential characteristics of a dwelling. The building has been designed and used for agricultural purposes.

**Signature(s):** Ciara Carson

**Date:** 19 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	23 October 2023
<b>Date First Advertised</b>	7 November 2023
<b>Date Last Advertised</b>	7 November 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 38 Lisnamuck Road Tobermore Londonderry BT46 5LD The Owner / Occupier 34B Lisnamuck Road Tobermore Londonderry BT45 5QF The Owner / Occupier 36 LisnamuckRoad Tobermore Londonderry BT45 5QF	
<b>Date of Last Neighbour Notification</b>	26 October 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
Ref: H/2006/0916/O Proposals: Site of proposed dwelling and garage Decision: AD Decision Date: 05-FEB-09  Ref: H/2000/0005/O Proposals: Site Of Dwelling and Garage Decision: PG Decision Date: 19-JUN-00  Ref: LA09/2023/1119/F Proposals: Replacement dwelling Decision: Decision Date:  Ref: H/1984/0345 Proposals: BUNGALOW AND DOUBLE GARAGE Decision: PG Decision Date:	



Ref: H/2001/0927/F  
Proposals: Replacement Dwelling & Garage  
Decision: PG  
Decision Date: 16-OCT-02

Ref: H/2009/0710/O  
Proposals: Proposed conversion of existing building to dwelling house with associated extension and alterations.  
Decision: PG  
Decision Date: 24-MAY-13

Ref: LA09/2019/1630/F  
Proposals: This is a section 54 application regarding a proposed conversion of a redundant building to form one dwelling house approved under LA09/2016/0889/F. This application seeks to vary condition 3 of the approval to which planning approval was granted removing the need for a forward sight distance  
Decision: PR  
Decision Date: 07-OCT-20

Ref: H/2010/0275/LDE  
Proposals: Attic conversion to dwelling  
Decision: PG  
Decision Date: 11-AUG-10

Ref: H/1995/0341  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: WITHDR  
Decision Date:

Ref: H/1995/0545  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1996/0025  
Proposals: DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1974/0349  
Proposals: 11KV AND MV O/H LINES C.5416  
Decision: PG  
Decision Date:

Ref: LA09/2016/0889/F

Proposals: Proposed conversion of a redundant building to form one dwelling

Decision: PG

Decision Date: 11-FEB-19

Ref: H/2006/0231/F

Proposals: Replacement Dwelling

Decision: PG

Decision Date: 24-OCT-06

Ref: H/1996/0322

Proposals: ALTS AND ADDS TO DWELLING

Decision: PG

Decision Date:

Ref: H/2003/0269/F

Proposals: Dwelling and garage.

Decision: PG

Decision Date: 23-MAY-03

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Full Resp.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Elevations Plan Ref: 03

Proposed Plans Plan Ref: 04

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2023/1215/O	<b>Target Date:</b> 26 February 2024
<b>Proposal:</b> Site for two dwellings and detached garages - CTY8.	<b>Location:</b> Lands Located between No 21 and No 23 Halfgayne Road Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Francis Bradley 30 Sunnyside Park Maghera BT46 5BG	<b>Agent Name and Address:</b> 2Plan NI 47 Lough Fea Road Cookstown BT80 9QL
<b>Executive Summary:</b> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 2, 8, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 8 and 14 therefore it is recommended for refusal.</p> <p>This proposal fails to meet Policy CTY 8 of PPS 21 as the gap under consideration is of a size that it could accommodate more than two dwellings. It consists of two plots of land, one of which is not within the red line of the site. Furthermore, the 3 buildings identified by the agent as being part of the roadside frontage are considered not to have substantial and continuously built up frontage along the Halfgayne road.</p> <p>Consultations were sent to DFI Roads, NI Water and HED which have raised no concerns.</p> <p>One third party objection has been received to date, points of concern raised around the siting of the proposed dwellings and how this could affect amenity of No.21, the objection also stated that the proposal will require the removal of a wall and fence owned by No.21 Halfgayne Road.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Statutory Consultee	NI Water - Single Units West	LA09-2023-1215-O.pdf

### Representations:

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

### Summary of Issues

1 objection was received on the 16/02/2024 and it raised the following concerns: The first point raised concern regarding the removal of the boundary wall and fence and the objector requested submission of a detailed site access plans however, this is not a material consideration for the process of this application and the following would be dealt with at Reserved Matters/Full application which could be conditioned for submission of a

detailed site access plan. The second point raised concerns regarding the siting of the proposed dwellings stating it will affect the amenity of the existing dwelling located at No.21 Halygayne Road. The objection stated that if the proposed were to be sited closer to the roadside they would sit in front of No.21 and if they were to be sited rear, they would sit above No.21.

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

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is located approximately 3.5 miles north west of the development limits of Maghera, and also lies within an area of Dispersed Rural Communities (Carntogher). The site comprises of a much larger agricultural field, the red line covers a somewhat rectangular fragment of the land which sits on the roadside, the topography of which slopes slightly from the roadside and gradually rises. The northern and southern site boundaries consist of post and wire fencing. The west roadside boundary consists of post and wire fencing interspersed by numerous trees, whilst the east boundary is undefined with mature trees beyond the red line. I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings alongside outbuildings and a sprawling agricultural fields.

### **Description of Proposal**

This is an outline application with a proposal for a site for two dwellings and detached garages to be accessed under CTY8.

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

#### **Policy Consideration**

#### **Representations**

Three (3) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. When writing this report, to date no third party representations have been received.

#### **Relevant Planning History**

Reference: H/1999/0034

Proposal: Site of dwelling

Location: 75M South East Of 23 Halfgayne Road Maghera

Decision and Date: Permission Refused

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

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking

- Planning Policy Statement 6: Planning, Archaeology and the Built Heritage
- Planning Policy Statement 21: Sustainable Development in the Countryside

### **Magherafelt Area Plan 2015**

The Magherafelt Area Plan 2015 identifies the site as being in the countryside situated in an Carntogher area of Dispersed Rural Communities (DRC) therefore policy COU04/01 must be considered. Carntogher DRC is located to the north north-west of Maghera on the edge of the Sperrin Area of Outstanding Natural Beauty, I believe the proposed development will have no conflict with Plan Policy COU04.

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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

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

access onto the Halfgayne Road. DFI Roads have no concerns subject to visibility splays of 2.4m x 70m with the hedge and fence to be set back as per the RS1 form, if approved this will be conditioned to be complied with at Reserved Matters stage.

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

The Northern Ireland Monuments and Buildings Record (NIMBR) makes available to the public information on sites of archaeological interest contained in the Northern Ireland Sites and Monuments Record (NISMR), as well as information on listed and other historic buildings and structures, industrial heritage features and historic parks, gardens and demesnes.

This site is located within approximately 200 metres from a (NISMR planning buffer zone), therefore HED Historic Monuments were consulted in which the response stated, 'Historic Environment Division (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.'

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

#### Policy CTY 1- Development in the Countryside

Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21.

#### Policy CTY 2 – Development in Dispersed Rural Communities

As previously mentioned, the site lies within a DRC, however, it is necessary to deal with this application under policy CTY 8 as the proposal is for two infill dwellings.

#### CTY 8 - Ribbon Development

Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. I do not believe this application site can be considered as a small gap site sufficient only to accommodate up to a maximum of two houses. The gap under consideration takes in the application site and a separate smaller parcel of land to the North of the application site which the applicants wants considered as established curtilage to number 23.

From review of Mid Ulster District Ortho's the last published ortho photography shows this parcel of land being used as a field in 2018(Figure 1). In the absence of a certificate of lawfulness which would demonstrate the change of use of this piece of land as residential curtilage to number 23 I do not consider this as being residential curtilage. For this reason, I am of the opinion that the gap site could potentially hold more than two dwellings creating a gap which acts as a visual break between number 23 and number 21.

Figure 1: (Ortho from 2018)



With regard to the built up frontage; I hold the view that north of the site, dwelling house at No.23 and the detached outbuilding associated with no. 23 Halfgayne Road along with the dwelling house No.21 southeast of the site do not hold a have substantial and continuously built up frontage along the Halfgayne road. With consideration given to the agents case put forward, I deem that the application fails to meet tests of paragraph 5.33 of CTY8.

Overall, I hold the view that the proposed application does not comply and is contrary to Policy CTY 8.

#### CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.



## CTY 14 - Rural Character

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As previously mentioned I am content that an appropriately designed dwelling will not appear prominent in the landscape however, since I have considered the application does not meet the exception under Policy CTY 8 I consider the proposal will be unacceptable under CTY 14 as it will, in my opinion, create a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

## Other Considerations

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

Northern Ireland Water were consulted on the application to which they have no objection to the proposed subject to standard conditions which can be viewed on Public Access.

It has been identified that there is a small degree of surface water flooding to the front of the site which has been confirmed through River Agency Strategic Flood Maps. I note that the agent has indicated the preferred siting for the two dwellings by means of a concept plan which lies outside the affected area, therefore for this reason it may be prudent to add a siting condition implement this if this application were to be approved.

## **Habitats Regulations Assessment**

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

## **Summary of Recommendation:**

Refuse is recommended

## **Refusal Reasons**

### **Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would create a ribbon of development along the Halfgayne Road.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, create a ribbon of development along this section of the Halfgayne Road.

**Signature(s):** Ciara Carson

**Date:** 19 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	13 November 2023
<b>Date First Advertised</b>	28 November 2023
<b>Date Last Advertised</b>	28 November 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 23 Halfgayne Road Maghera Londonderry BT46 5NZ The Owner / Occupier 22 Halfgayne Road Maghera Londonderry BT46 5NZ The Owner / Occupier 21 Halfgayne Road Maghera Londonderry BT46 5NZ	
<b>Date of Last Neighbour Notification</b>	21 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/2011/0158/F  Proposals: Erection of agricultural shed  Decision:  Decision Date:</p> <p>Ref: H/2011/0368/F  Proposals: Erection of Domestic Garage  Decision: PG  Decision Date: 26-SEP-11</p> <p>Ref: H/2012/0011/F  Proposals: Proposal to increase the size and scale of a shed for domestic use (previous approved under Ref: H/2011/0368/F) and an increase to the curtilage of the original dwelling to accommodate the repositioning of the shed  Decision: PG  Decision Date: 25-APR-12</p> <p>Ref: LA09/2023/1215/O  Proposals: Site for two dwellings and detached garages - CTY8.</p>	

Decision:  
Decision Date:

Ref: H/1990/0200  
Proposals: FARM BUNGALOW  
Decision: PG  
Decision Date:

Ref: H/1999/0034  
Proposals: SITE OF DWELLING  
Decision: PR  
Decision Date:

Ref: H/1989/0590  
Proposals: SITE OF FARM BUNGALOW  
Decision: PG  
Decision Date:

### **Summary of Consultee Responses**

Historic Environment Division (HED)-  
DFI Roads - Enniskillen Office-Outline resp.docx  
NI Water - Single Units West-LA09-2023-1215-O.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

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

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2023/1279/F	<b>Target Date:</b> 8 March 2024
<b>Proposal:</b> Extension to curtilage to provide garden space and domestic storage shed	<b>Location:</b> 96 Mullan Road Coagh
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Terence Maynes 86 Mullan Road Coagh BT80 0JF	<b>Agent Name and Address:</b> CMI Planners 38A Airfield Road Antrim BT41 3SQ
<b>Executive Summary:</b>  This case is being brought before members for refusal, due to the proposal failing to meet requirements of Paragraphs A11 and A13 of 'Addendum to PPS7: Residential extensions and alterations' and CTY policies 13 and 14 under PPS21: Sustainable Development in the Countryside.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

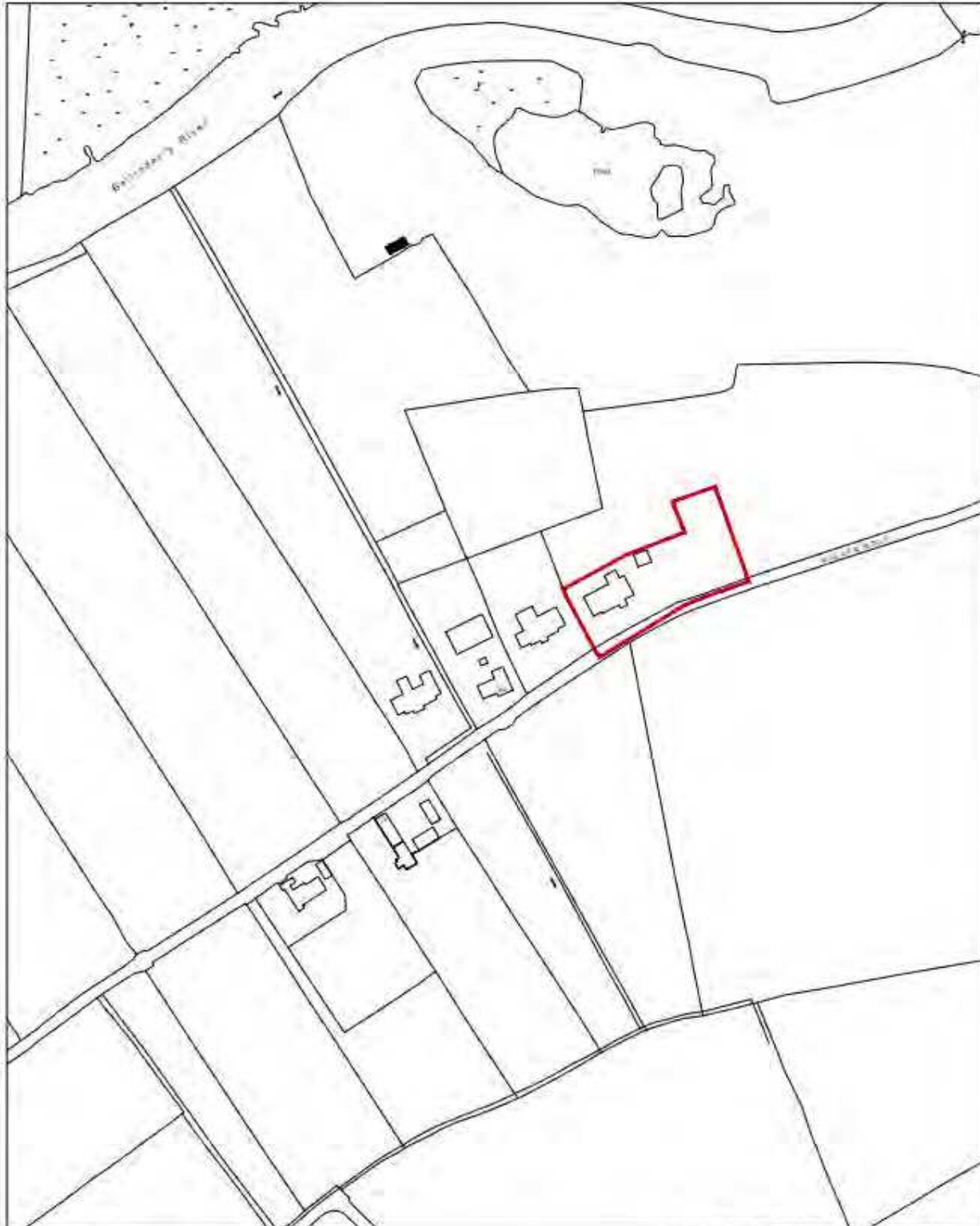
Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

This site is located approximately 3.84 Miles from the the village of Coagh and is located in the open countryside as per the Cookstown area plan 2010. The site is identified as 96 Mullan Road, Coagh. The area is rural in character, consisting mostly of agricultural fields with a few dwellings present, the site is also close to the shore of Lough Neagh,

putting it within the CTY2/02 countryside policy area: Lough Neagh Shore, Cookstown.



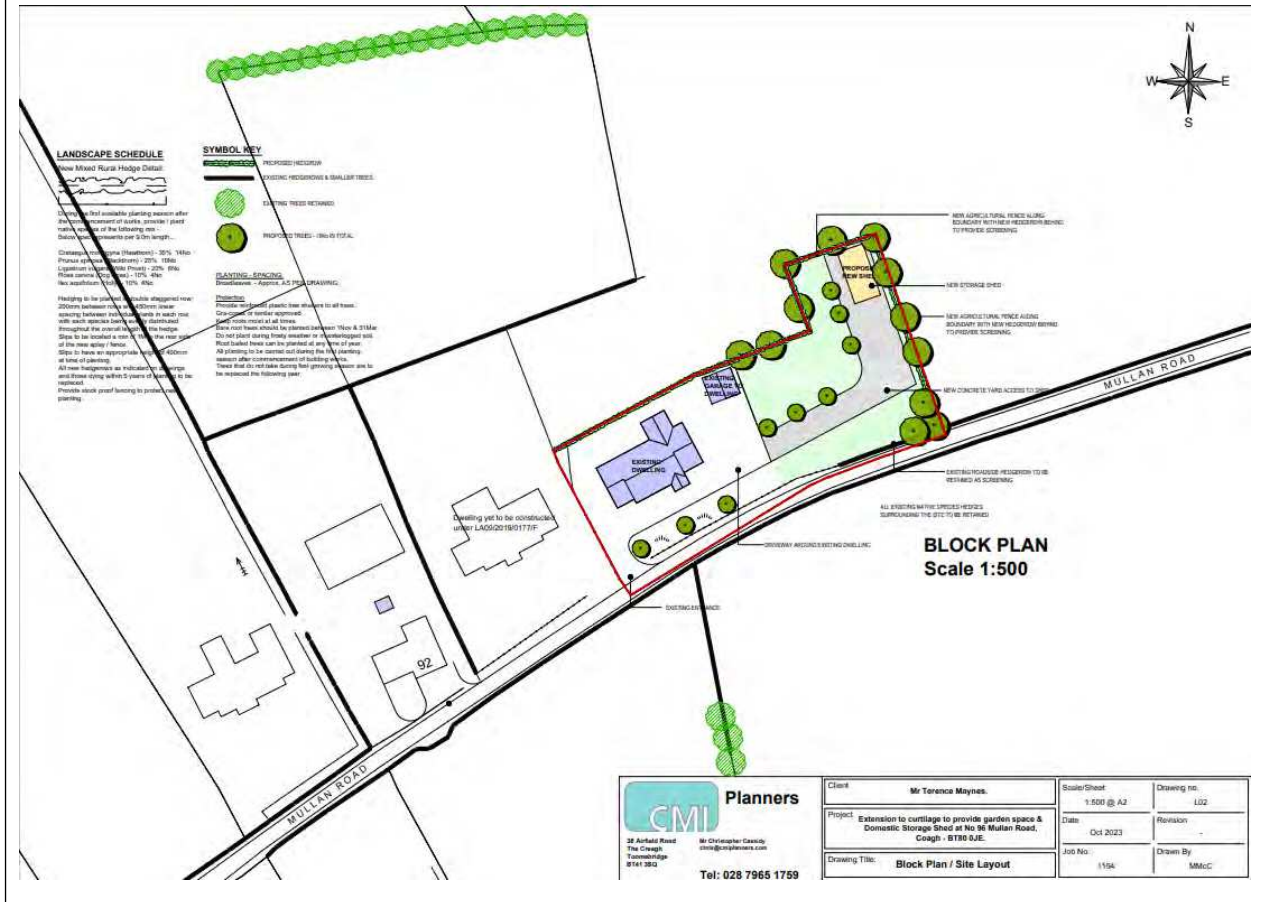
Location Plan  
Scale 1:2500

O.S. Map Ref: 110-13 NE & 110-13 SE

### Description of Proposal

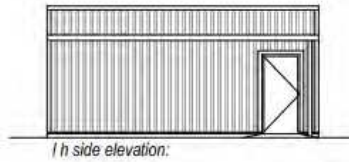
APPLICATION NUMBER – LA09/2023/1279/F  
ACKN

This is a full application for the proposed extension of curtilage to provide garden space and a domestic storage shed at 96 Mullan Road, Coagh.

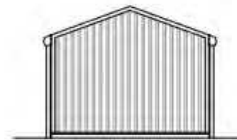
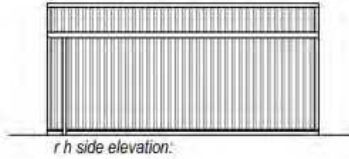





EXTERNAL FINISHES:	
ROOF:	- Single skin standing panel. Colour - Grey
EXTERNAL WALLS:	- Single skin standing panel. Colour - Cream
RAINWATER GOODS:	- uPVC gutters and downpipes
DOORS:	- Metal door & frames



*Floor Plan*



 <p><b>Planners Ltd.</b> 24 Richard Road The Grange Tomonahoge BT81 5DQ Tel: 028 7865 1758</p>	Client:	Mr Terence Mayne.	Scale/Sheet:	1:100 @ A3	Drawing no.	153
	Project:	Extension to curtilage to provide garden space & Domestic Storage Shed at No 96 Mullan Road, Coagh - BT81 5JE.	Date:	Oct 2023	Revision:	-
	Drawing Title:	Proposed Shed Details	Job No.:	1154	Drawn By:	MMAC

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### Site History (Last 5 years)

**LA09/2015/0792/LDP**

Proposed Agricultural Shed

Permission Granted

**LA09/2017/0710/F**

25M And 50M North East Of 92 Mullan Road

Coagh, Proposed infill/gap site for 2 dwellings and domestic garage based on policy CTY8

Permission Granted

**LA09/2019/1005/NMC**

Site 2 - 50M North East Of 92 Mullan Road., To raise finished floor and ground levels on site 2 by 350mm from approved  
NMC Granted

**LA09/2019/0177/F**

25M North East Of No. 92 Mullan Road, Coagh  
BT800JE, Proposed change of house type for that originally approved under application no. LA09/2017/0710/F.  
Permission Granted

**Other Histories****LA09/2017/0096/CA**

50M North East Of 92 Mullan Road  
Unauthorised building, hardcore and access.  
Enforcement Case closed

**Representations**

In line with Statutory Neighbour Notification Procedures, 2 neighbouring properties were notified of this application. To date, there have been no letters of objection received in respect of the proposal.

This application was advertised in the Derry Post on the 5<sup>th</sup> of December 2023.

No official body or organization was consulted for this application.

**Cookstown Area Plan 2010**

This site is located approximately 3.84 Miles from the village of Coagh and is located in the open countryside as per the Cookstown area plan 2010. The site is not subject to any development plan designations relevant to this assessment.

**The SPPS**

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. As this development is being proposed in the countryside, policies CTY 13 and 14 of PPS21 will be material considerations. As well as this, Addendum to PPS 7: Residential Extensions and Alterations will be another aspect of retained policy used for consideration.

### **Local Development Plan**

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

### **Addendum to PPS 7 – Residential Extensions and Alterations**

Addendum to PPS 7 - Residential Extensions and Alterations states that when dealing with proposed garages and other associated outbuildings, proposals within the residential curtilage, such as, garages, sheds and greenhouses can often require as much care in siting and design as works to the existing residential property.

They should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the building from surrounding views. The use of false pitches should be avoided as these often detract from the appearance of these buildings, particularly when viewed from the side.

The proposal includes an extension to the curtilage eastwards towards the loughshore, and it is in the northeastern corner of this expansion where the shed and concrete yard also proposed for this application will be sited. The proposed Shed will be 7.18 Metres long, 4.17 Metres wide, and 2.62 Metres tall from floor height. It will be sited approximately 46.4 Metres from the existing dwelling, or 30.5 Metres from the smaller shed that currently exists between the proposed site and existing dwelling. These particular dimensions, scale and position of the proposed shed give it the impression of being too far removed and separate from the existing dwelling to be considered a domestic structure, or to be associated with the Dwelling at No.96.

Considering this, I believe that the proposal will have a negative impact upon the surrounding area and does not accord with the policy criteria set out specifically, paragraphs A11 (“They should be subordinate in scale and similar in style to the existing property, taking account of materials, the local character and the level of visibility of the

building from surrounding views.”) and A13 (“In the countryside, ancillary buildings should be designed as part of the overall layout to result in an integrated rural group of buildings”).

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

As this proposal is a development in the countryside, PPS 21 applies, specifically CTY policies 13 and 14. As the dwelling that this application relates to (96 Mullan Road) was approved under CTY 8, we will also consider it.

### **CTY 8 – Ribbon Development**

Planning permission will be refused for a building which creates or adds to a ribbon of development.

The dwelling to which this application for curtilage extension relates (96 Mullan Road) was approved under CTY 8 in the application LA09/2017/0710/F, as an infill dwelling based on the presence of an agricultural shed (previously approved under LA09/2015/0792/LDP). This proposal to extend the curtilage and build a new shed will significantly extend the ribbon of development eastwards and past the site of the original shed that was a material consideration in 96 Mullan Road previously being approved as an Infill dwelling, particularly of relevance to this expansion of the development ribbon is the siting of the proposed shed. The size and scaling of this proposal would also be contrary to CTY 8, as it does not respect the existing development pattern along the road frontage (Dwellings presenting first towards the roadside, with sheds and garages sited to their rear).

Considering the above, I do not believe this proposal meets the criteria required to meet CTY 8.

### **CTY 13: Integration and design of buildings in the countryside**

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.

A new building will be unacceptable where:

- (a) it is a prominent feature in the landscape; or
- (b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; or
- (c) it relies primarily on the use of new landscaping for integration; or
- (d) ancillary works do not integrate with their surroundings; or
- (e) the design of the building is inappropriate for the site and its locality; or
- (f) it fails to blend with the landform, existing trees, buildings, slopes and other natural

features which provide a backdrop; or

(g) in the case of a proposed dwelling on a farm (see Policy CTY 10) it is not visually linked or sited to cluster with an established group of buildings on the farm.

The proposed siting of the shed (approximately 46 metres away from the existing dwelling, and on higher ground as seen in site photos) means it will sit apart from the existing dwelling and consequently fails to blend with the landform and existing buildings already present on site while also being a prominent feature in the local landscape, breaching points (f) and (a) respectively. The design of the proposed driveway will not integrate with the sites surroundings and appears to be excessively hard-cored, breaching point (d). The proposal also relies primarily on the use of new landscaping for integration rather than appropriate siting and scaling of ancillary works, therefore breaching point (b).

For these reasons, I am not content that this proposal meets the criteria of CTY 13.

#### **CTY 14: Rural Character**

A new building will be unacceptable where:

(a) it is unduly prominent in the landscape; or

(b) it results in a suburban style build-up of development when viewed with existing and approved buildings; or

(c) it does not respect the traditional pattern of settlement exhibited in that area; or

(d) it creates or adds to a ribbon of development (see Policy CTY 8); or

(e) the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character.

The proposed siting of the shed; a 4.17m wide x 7.18m long x 2.62m tall structure sited approximately 46 metres from the existing dwelling and on higher ground, will make it unduly prominent in the landscape, breaching point (a). The proposed design and placement also does not respect the traditional pattern of settlement exhibited in the area (due to the proposed shed being located so far from the dwelling it should be visually linked to, it is too far removed and separate to be considered a domestic shed), and the impact of ancillary works (specifically the implementation of the new drive and scheme of planting) will damage the rural character of the local area, breaching points (c) and (e) respectively.

For these reasons I do not believe this proposal meets the criteria of CTY 14.

#### **Other Considerations**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential

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

**Summary of Recommendation:**

Refuse is recommended

I believe that this proposal should not be approved, as it breaches multiple points of CTY13 and CTY14 under PPS21, and paragraphs A11 and A13 of Addendum to PPS7: Residential Extensions and Alterations.

**Refusal Reasons**

**Reason 1**

The proposed development is contrary to Policy EXT 1 of the Addendum to Planning Policy Statement 7, as it is considered the scale and design of the proposal will detract from the appearance and character of the surrounding area.

**Reason 2**

The proposed development is contrary to Policy CTY 13 of Planning Policy Statement 21, as it is considered the proposal will be a prominent feature in the landscape, the ancillary works will not integrate with their surroundings, the proposal will fail to blend with the landform and it relies primarily on the use of new landscaping to integrate into this rural area.

**Reason 3**

The proposed development is contrary to Policy CTY 14 of Planning Policy Statement 21, as it is considered the proposal will be unduly prominent, it will not respect the traditional pattern of settlement in the area, it will add to a ribbon of development and the impact of the ancillary works will damage the rural character of this area.

**Reason 4**

The proposed development is contrary to Policy CTY 8 of Planning Policy Statement 21, as the siting of the proposed building will add to a ribbon of development.

**Signature(s):** Ciaran O'Neill

**Date:** 22 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	24 November 2023
<b>Date First Advertised</b>	19 December 2023
<b>Date Last Advertised</b>	19 December 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 92 Mullan Road Coagh Tyrone BT80 0JF The Owner / Occupier 94 Mullan Road Coagh Tyrone BT80 0JF	
<b>Date of Last Neighbour Notification</b>	28 November 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2017/0710/F Proposals: Proposed infill/gap site for 2 dwellings and domestic garage based on policy CTY8 Decision: PG Decision Date: 11-JUN-18</p> <p>Ref: LA09/2023/1279/F Proposals: Extension to curtilage to provide garden space and domestic storage shed Decision: Decision Date:</p> <p>Ref: I/1977/0310 Proposals: 11 KV O/H LINE Decision: PG Decision Date:</p> <p>Ref: LA09/2019/1005/NMC Proposals: To raise finished floor and ground levels on site 2 by 350mm from approved Decision: CG Decision Date: 25-SEP-19</p> <p>Ref: LA09/2019/0177/F</p>	



Proposals: Proposed change of house type for that originally approved under application no. LA09/2017/0710/F.

Decision: PG

Decision Date: 14-MAY-19

Ref: LA09/2015/0792/LDP

Proposals: /Proposed agricultural isolation and storage building

Decision: PG

Decision Date: 27-NOV-15

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

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

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2023/1300/F	<b>Target Date:</b> 14 March 2024
<b>Proposal:</b> Alterations and 2 storey rear extension to existing dwelling	<b>Location:</b> 28 Moneymore Road Cookstown BT80 8EQ
<b>Referral Route:</b> Approve <b>is recommended</b>	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Michael Young 37 Craigadick Road Maghera BT46 5DE	<b>Agent Name and Address:</b> Mr Joe Diamond 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>  Considered against the Addendum to PPS 7 Residential Extensions and Alterations, Policy EXT 1.  One anonymous objection received citing concerns surrounding privacy, amenity, overlooking, anti-social behaviour and an existing garage not shown on initial site layout.  Amended plans and a Statement from the Agent assessed as having overcome objectors' concerns. No further representations received.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The existing dwelling at 28 Moneymore Road, Cookstown is located within the settlement limits of Cookstown as defined within the Cookstown Area Plan 2010. This large detached two storey dwelling with detached garage to the rear is sited approximately 30 metres east of an existing Go Filling Station and is accessed directly from the A29 Moneymore Road (Protected Route), Cookstown. The dwelling is currently uninhabited and in need of rejuvenation. The external walls are painted in a smooth cream / white render, with a red brick front projection that includes a flat roof porch, and a red brick under build. The window frames and sills are brown with white guttering and white fascia and soffits. The front garden is relatively small, and overgrown, albeit with ample room for in curtilage parking. The detached garage abuts a common boundary with the neighbouring property at 30 Moneymore Road.

APPLICATION NUMBER - LA09/2023/1300/F  
 ACRN

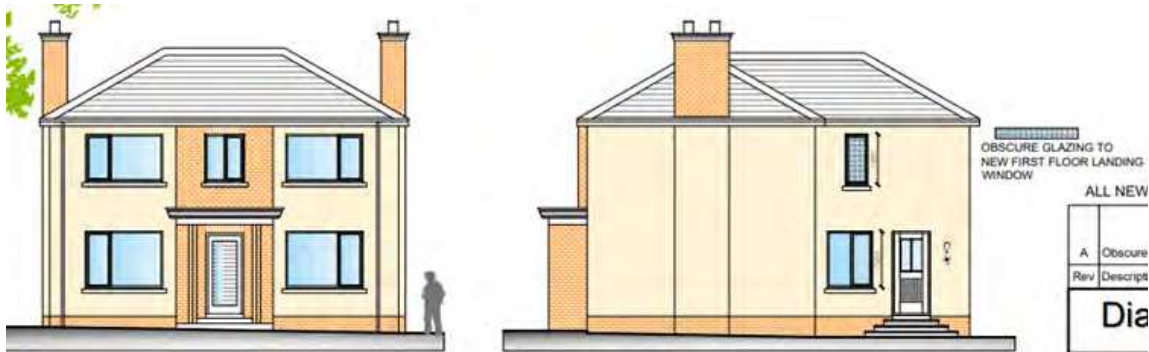
The rear of the dwelling is in a similar condition to the front elevation, although some of the windows were boarded closed, and there are no red brick finishes aside from the under build to the rear. The rear garden is also overgrown, with a mix of mature trees, bushes and shrubs and extends 30 metres or more, as shown on the applicants site location map (Drawing 01 land outlined in blue). The rear curtilage will be reduced as shown on Drawing 01 and further detailed within Drawing 02 Rev 1. Site visit photographs (front and rear) from the 12<sup>th</sup> January 2024 are shown below.



### Description of Proposal

The applicant seeks planning permission for alterations and a two-storey rear extension to the existing dwelling which involves the creation of a kitchen, dining and utility space on the ground floor with a fourth bedroom and hot press on the first floor.

### Proposed elevations & floor plans Drawing 03 Rev 1:





## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### **Cookstown Area Plan 2010.**

The existing dwelling at 28 Moneymore Road, Cookstown is located within the settlement limits of Cookstown as defined within the Cookstown Area Plan 2010.

#### **SPPS – Strategic Planning Policy Statement.**

The SPPS provides a regional framework of planning policy that will be considered in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted and therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the

countryside, which includes infill opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and must not have an adverse impact on the rural character of the areas and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

The SPPS directs readers to ‘retained planning policy’ and refers to the ‘Addendum to Planning Policy Statement 7 Residential Extensions and Alterations’.

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

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

### **Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations.**

Policy EXT 1 of the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations, is the relevant policy consideration for this type of development proposal.

The requirements of Policy EXT 1 stipulate that planning permission will be granted for a proposal to extend or alter a residential property where all four criteria are met.

Regarding the scale and massing of the proposed extension, this constitutes a modest increase to the existing dwelling footprint. For example, the existing dwelling has a total floorspace of approximately 94.13m<sup>2</sup>, and the two-storey rear extension increases this by around 36.67m<sup>2</sup> which brings the overall total to approximately 130.80m<sup>2</sup>, representing an increase in floorspace of just under 39%. The height of the rear extension measures just over 7 metres above finished floor level and is just below the existing ridge height of the dwelling.

Within the proposed elevations and floor plans as shown on Drawing 03 Rev 1, the Agent has indicated that the proposed external finishes will match the existing dwelling. Therefore, the finishes are considered sympathetic to the existing property and will not detract from the appearance or character of the surrounding townscape. In addition, aside from a new front door the changes are to the rear, there will be no greater visual impact than the existing dwelling, and with the dwelling being rejuvenated it will be a visual improvement for the surrounding area.

In terms of the privacy and amenity of neighbouring residents the nearest dwellings are east and west of the existing property. The dwelling to the west at 26 Moneymore Road, is currently uninhabited and under the same applicant’s control as this application and was subject of a recent proposal which subsequently approved a domestic extension. I

am contented that the proposed boundary fencing and existing vegetation provide a reasonable degree of private amenity space and will not unduly impact on the amenity of prospective residents at 26 Moneymore Road.

An anonymous objection was received based on a number of grounds.

- Safety and privacy concerns surrounding the existing boundary treatment between 28 and 30 Moneymore Road.
- An existing garage along the common boundary was proposed to be removed and was not shown on the site layout / block plan.
- Objectors preferred option was that the existing garage along the common boundary would be retained.
- Allegations of antisocial behaviour, including vandalism at 28 Moneymore Road, caused stress and anxiety to neighbours.
- Concerns raised regarding overlooking from a first-floor side elevation window and ground floor window and door.

Upon having sight of the objection on Councils Planning Portal, the Agent submitted a Planning Statement and amended plans on 25<sup>th</sup> January 2024 to address concerns outlined in the objection. The amended plans and statement included:

- The retention of the existing garage, and all existing fencing and walls along the common boundary between 28 and 30 Moneymore Road.
- Utilising obscured glazing on the first-floor side elevation window to a small landing / hot press.
- The Agent indicated his awareness of overlooking concerns in designing the extension and ensured that any habitable first floor rooms with windows were positioned on the rear elevation and not to the side.
- The remaining rear boundary that extends northwest is not part of this current application and will be addressed under any future application on said lands.
- The location of a ground floor window (dining area) and door (into a utility room) on the side elevation will not lead to overlooking.

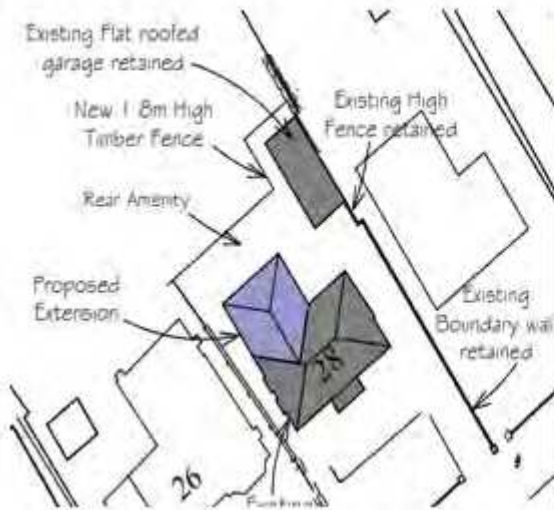
### **Assessment of amendments in the context of the objection.**

Following receipt of amended plans and a Planning Statement from the Agent, I renotified neighbours (which included the objector) about the revisions. No further representations were received to the date 25<sup>th</sup> of March 2024.

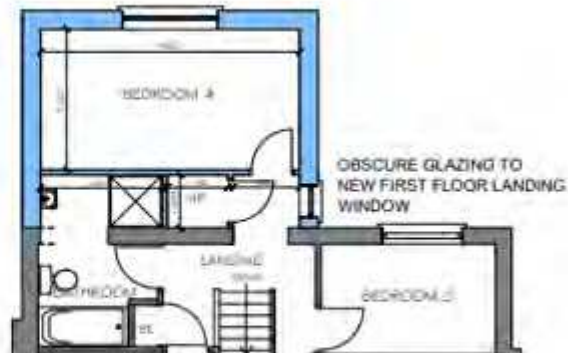
Much of the objectors worry centered on the existing garage along the common boundary being removed and not being illustrated on the initial site layout. Considering the revised plans and associated statement from the Agent, by retaining this existing structure and associated boundary treatments, the Agent in my opinion has successfully addressed the objector's concern. Furthermore, through the submission of revised plans illustrating the use of obscure glazing on the small first floor landing window, I am

satisfied that the objectors concern surrounding overlooking is overcome and can be conditioned as part of any decision.

Snip from Drawing 02 Rev 1.



Snip from Drawing 03 Rev 1.



In relation to allegations of antisocial behaviour at 28 Moneymore Road, the fact that this property will be rejuvenated by this domestic extension clearly signals the applicant's intention, i.e. to make this dwelling habitable. It would not be unreasonable to assume that the reason that such anti-social activity may have taken place at this property was largely due to it being derelict for a sustained period.

Regarding overlooking from the ground floor side window and door, despite 28 Moneymore Road being sited above the level of 30 Moneymore Road, I would agree with the Agents' statement, in that these are unlikely to pose any overlooking issues. Indeed, the neighbouring dwelling (30 Moneymore Road) has two ground floor windows and two first floor windows on the side elevation facing 28 Moneymore Road (as shown within below site visit photograph). In light of the amended design from the Agent and the important fact that no further objections have been received I am satisfied that the objectors' concerns are overcome, and that the proposal does not unduly affect the privacy or amenity of neighbouring residents.





The majority of trees and hedges to the rear of the existing dwelling sit outside the confines of this current application. The Agent has shown on the site layout Drawing 02 Rev 1 that a new 1.8m high timber fence will be erected to define the rear boundary and curtilage. There are no significant landscape features within the site boundary and in my opinion the local environmental quality will remain intact.

The proposed changes to the existing dwelling will retain provision for domestic and recreational activities, including the manoeuvrability and parking of vehicles at the front and side of the existing dwelling, essentially the status quo is maintained in this regard. The existing dwelling did not have vehicular access to the rear of the property.

I am satisfied that this proposal satisfies the criteria (a), (b), (c), and (d) contained within Policy EXT 1 of the Addendum to PPS 7 Residential Extensions and Alterations.

**Other material planning considerations:**

The existing dwelling is not impacted by any Listed Buildings or Listed Structures.

The existing dwelling is not impacted by any fluvial flooding or surface water flooding.

I have no concerns of any detrimental impacts on environmental or ecological features.

**Recommendation:**

Having carried out an appropriate assessment of this development proposal against prevailing planning policy and other material planning considerations, I am content that the proposal satisfies all criteria (a-d) contained within Policy EXT 1 of the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations. I therefore recommend this application be Approved.

**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**

A 1.8 metre high timber fence shall be erected to define the rear curtilage as annotated on Drawing No 02 Rev 1 (uploaded to Councils Planning Portal on 25th of January 2024), prior to occupation of the dwelling following completion of works hereby approved.

Reason: In the interest of privacy and amenity.

**Condition 3**

Obscured glass shall be installed on the side elevation first floor landing window as annotated on Drawing 03 Rev 1 uploaded to Councils Planning Portal on 25th January 2024, prior to the occupation of the dwelling following completion of works hereby approved, and retained in perpetuity thereafter.

Reason: In the interests of privacy and amenity.

**Signature(s):** Ruairi OKane

**Date:** 25 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	30 November 2023
<b>Date First Advertised</b>	12 December 2023
<b>Date Last Advertised</b>	12 December 2023
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier RNN 26 Moneymore Road Cookstown Tyrone BT80 8EQ The Owner / Occupier 30 Moneymore Road Cookstown Tyrone BT80 8EQ The Owner / Occupier 15 Moneymore Road Cookstown Tyrone BT80 8EQ The Owner / Occupier 15A Moneymore Road Cookstown Tyrone BT80 8EQ The Owner / Occupier 15B Moneymore Road Cookstown Tyrone BT80 8EQ	
<b>Date of Last Neighbour Notification</b>	20 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/2009/0053/O  Proposals: Proposed site of 2 No. commercial retail units and 4 No. residential units  Decision:  Decision Date:</p> <p>Ref: I/2008/0111/F  Proposals: Erection of nursing home and 92no dwelling units comprising of 9no detached  42no semi detached, 33no townhouses, 2no duplex dwellings and 6no apartments with  associated road network and landscaping.  Decision: PG  Decision Date: 01-NOV-10</p> <p>Ref: LA09/2018/0447/F  Proposals: Proposed 2 storey rear extension to dwelling to allow dining area on ground  floor with dress room and en-suite above  Decision: PG</p>	

Decision Date: 06-JUN-18

Ref: LA09/2018/0871/NMC

Proposals: The approved drawings proposed a flat roof above the new extension  
The amended drawings propose a hipped roof above the new extension instead of the approved flat roof

the floor plans and wall elevations remain unchanged

Decision: CG

Decision Date: 16-JUL-18

Ref: I/2006/1217/F

Proposals: Proposed re-development of nos. 26 & 28 Moneymore Road to provide sixteen apartments for residential use

Decision: PR

Decision Date: 16-JUL-10

Ref: I/2006/0958/Q

Proposals: Proposed Townhouse/Apartment development

Decision: 211

Decision Date: 20-DEC-07

Ref: LA09/2020/1638/DC

Proposals: Discharge of Condition No 7 & 8 of previously approved I/2008/0111/F.

Decision: AL

Decision Date: 26-JAN-21

Ref: LA09/2023/1301/F

Proposals: Alterations and first floor rear extension to existing dwelling

Decision:

Decision Date:

Ref: LA09/2023/1300/F

Proposals: Alterations and 2 storey rear extension to existing dwelling

Decision:

Decision Date:

Ref: I/2010/0350/O

Proposals: Redevelopment of site to provide apartment development & associated car parking & amenity space

Decision: PG

Decision Date: 17-NOV-10

### **Summary of Consultee Responses**

-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Site Layout or Block Plan Plan Ref: 02  
Elevations and Floor Plans Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02 Rev 1  
Elevations and Floor Plans Plan Ref: 03 Rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2023/1311/F	<b>Target Date:</b> 19 March 2024
<b>Proposal:</b> Dwelling and domestic garage (change of house type and garage from that previously approved under I/2006/0008/RM including relocation of garage within extended curtilage)	<b>Location:</b> Site opposite 64 Feegarron Road, Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr & Mrs Alan & Claire Boyle 4 Lissan Road Cookstown BT80 8EN	<b>Agent Name and Address:</b> Mr Mark Nelson Garden Studio 2 Craigmount Cookstown Cookstown BT80 9NG
<b>Executive Summary:</b> <p>This application relies on the permission from previously approved I/2006/0008/RM having been commenced before the 15th of March 2009. The design of the proposed dwelling itself was assessed under CTY 13 and 14 of PPS 21, and no issues with this aspect of the proposal was found.</p> <p>However, having investigated the site and case through historical orthos, historical ground level imagery, and evidence provided by the Agent of the Applicant, I do not believe that pre-commencement conditions 2 and 3 of the permission for I/2006/0008/RM had been met prior to the construction of foundations, therefore I do not believe that I/2006/0008/RM had been lawfully commenced, thus it has lapsed and this application cannot proceed</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	This consultation is duplicated. DFI response on 27th February 2024.
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation - Approval.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc

### Representations:

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

### Summary of Issues

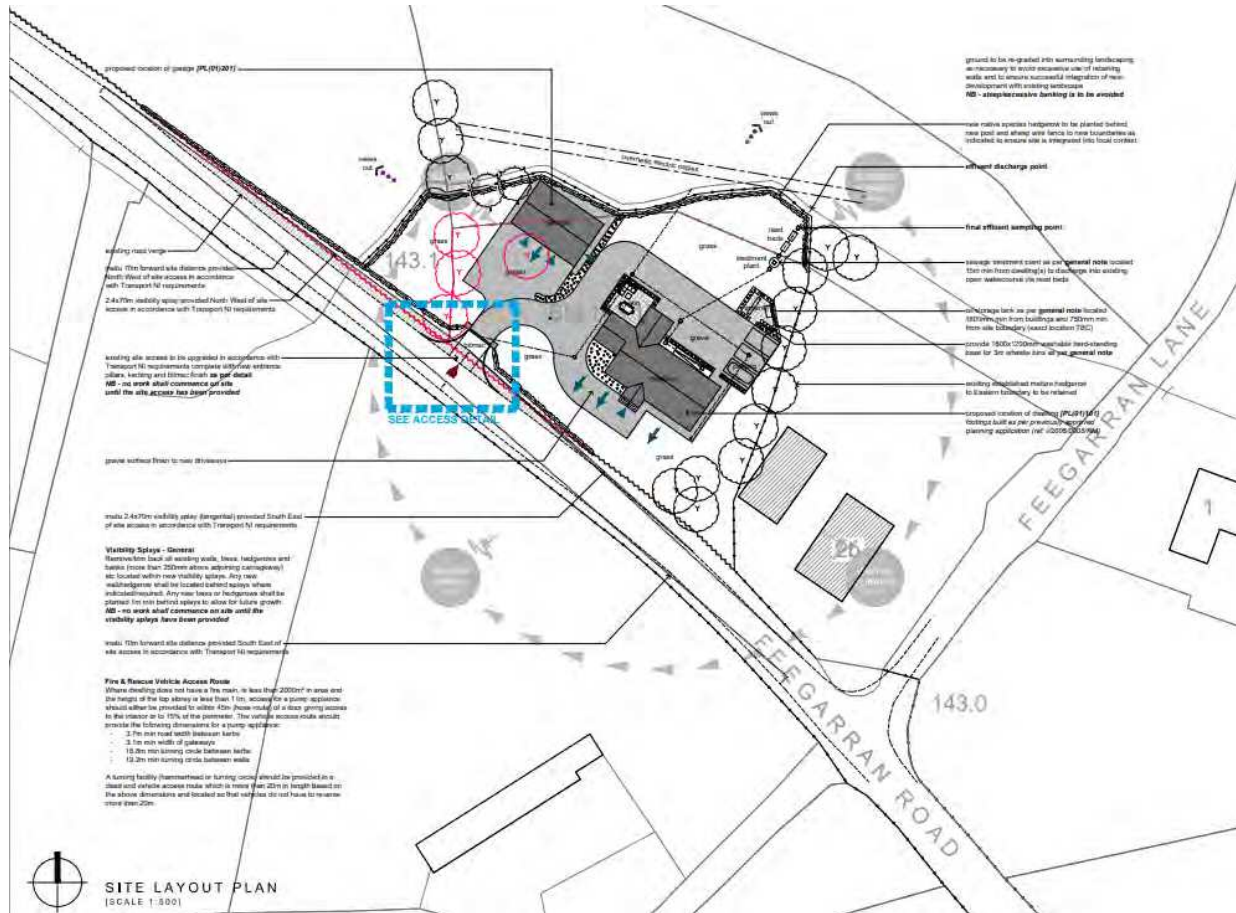
### Characteristics of the Site and Area

Opposite of 64 Feegarran Road, Cookstown, and lies 2.48 Miles from the settlement limits of Cookstown, as determined by the Cookstown Area Plan 2010.

The surrounding landscape is primarily rural with most of the landscape consisting of agricultural fields and a few scattered dwellings. To the southwest lies a cluster of three farm dwellings with associated outbuildings. Currently the site itself is partly overgrown with vegetation and trees.

## Description of Proposal

This is a Full application for a change of house type and garage from that previously approved under I/2006/0008/RM, including relocation of garage within extended curtilage. Below I append a Site Layout Plan, displaying the structures and planting proposed.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration



### **Site History (Last 5 years)**

I/2003/0953/O – (Outline Permission for I/2006/0008/RM). - Permission Granted

I/2006/0008/RM (Original permission this application seeks to complete) - Permission Granted

### **Other Histories**

N/A

### **Representations & Consultations**

The Department for Infrastructures' Enniskillen Roads Team were consulted for this application, and in their response dated 27 February 2024, they offered no objection to the proposal, on the condition that it is constructed and maintained to that detailed in drawing 02 dated November 2023, with conditions.

5 Neighbours were notified of this proposal, and no objections have been received.

### **Area Plan**

This site is opposite of 64 Feegarron Road, Cookstown, and lies 2.48 Miles from the settlement limits of Cookstown, according to the Cookstown Area Plan 2010. The site is not subject to any Area Plan designations or zonings.

### **Local Development Plan**

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

### **The SPPS**

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. As this development will be in the countryside, PPS 21 will be of particular consideration.

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

The commencement of development under I/2006/0008/RM has not been established, as the applicant cannot provide sufficient evidence to prove that the pre-commencement conditions of said permission were fulfilled in line with said permission.

### **Assessment**

In order to determine if this proposal for a change of house type can be evaluated, it must first be confirmed if the prior permission this proposal is relying on (I/2006/0008/RM) was implemented correctly.

Firstly, condition 1 states; “As required by Article 35 of the Planning (Northern Ireland) Order 1991 the department to which this approval relates must be begun by whichever is the latter of the following dates:-

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

Thus we must determine that development of this prior permission has been begun before the latest possible deadline this condition allows (13<sup>th</sup> of March 2009), if it has been commenced lawfully, then the matters reserved under the OPP of I/2006/0008/RM must be considered.

I/2006/0008/RM has two pre-commencement conditions, conditions 2 and 3:

2. The vehicular access, including visibility splays and any forward sight line, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development hereby permitted.

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

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway prior to the commencement of any works or other development hereby permitted and shall be retained and kept clear thereafter.

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

The applicant provided a statement from building control dating 2<sup>nd</sup> August 2023, stating that foundations were inspected on site on the 3<sup>rd</sup> of November 2008. I note that building control does not examine whether developments are implemented in line with Planning policy or conditions, so while this statement confirms the site was inspected and built foundations were present when this occurred, there is no confirmation that the foundations were built following the implementation of precommencement conditions 2 and 3 in line with approved drawings and as required by the permission of I/2006/0008/RM.

From Orthographic photos, it can be seen that in 2010 the access and splays as indicated on the stamped and approved Drawing 04 Revision 3 were not implemented in line with the Reserved Matters. No Orthos were available for this site in 2009, but street view photography from September of that year display that again, the visibility splays and access as indicated in Drawing 04 Revision 3 were not implemented in line with the Reserved Matters. Below I have included an orthographic image from 2010, displaying the site.



- Address\_Data ...
- Current Ortho ...
- Ortho 2018 ...
- Ortho 2017 ...
- Ortho 2016 ...
- Ortho 2015 ...
- Ortho 2014 ...
- Ortho 2013 ...
- Ortho 2012 ...
- Ortho 2011 ...
- Ortho 2010 ...
- Ortho 2009 ...
- Ortho 2008 ...
- Ortho 2007 ...
- Ortho 2006 ...

Using streetview, I was able to locate and view the site where the access and splays required by I/2006/0008/RM, but instead found that in September 2009, the only apparent access to the site was via a pre-existing gap in the hedgerow with a pair of agricultural gates loosely tied to two pillars; not an access that was in line with the Reserved matters or with splays sufficient to meet the criteria of precommencement

conditions 2 and 3. In September 2022, it is noted that the original agricultural-style gates present at this opening have been removed, and the site behind remains overgrown.

When conducting a site visit, I noted that the hedgerow and trees that had been visible near the roadside of the site in both Orthographic and streetview photography were no longer present, and a new boundary of wire fencing and a new gate had been implemented, as well as a new gravel access. These changes appear to have occurred post-purchase of the land by the applicant, (which has been confirmed by the Agent) as even the most recent Orthographic photography available still shows trees and vegetation across the roadside boundary that are no longer present.

I do not believe that precommencement conditions 2 or 3 have been met, as what development has taken place on the site has not been in line with the Reserved Matters of I/2006/0008/RM, and no evidence has been provided that can prove the access and visibility splays were implemented and in place prior to the construction of foundations on this site.

### **CTY 13: Integration and design of buildings in the countryside and CTY14: Rural Character**

Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

I do not believe the proposed dwelling in this application will be a prominent feature in the local landscape, as it will be at road level and behind a planted hedge with wire fence, the dwelling itself will have a ridge height of roughly 6.10 metres, Gable Depth of 8.4 metres and total Length of 20.58 metres when viewed from the road, it superficially resembles the nearby existing dwelling at No.64a Feegarron Road, which is located in a prominent position uphill, just west of the site for this proposed dwelling.

The site has two natural boundaries; a hedgerow along the eastern flank, and an open watercourse along the northern and northeastern boundary, as well as these natural boundaries there will be new hedgerow planting along the western and North/Northwestern boundaries behind wire fencing, which I believe would serve well to integrate the site into the local landscape. The proposed dwelling is a storey and a half house visually presenting as a bungalow, with a 6.100M ridge height, as seen in Drawing No.3, which I believe is appropriate to prevent the dwelling being prominent behind the planted hedgerow, and ensure it blends better into the local landscape.

This proposal does not appear that it will result in a suburban style build-up when viewed alongside existing and approved buildings in the area, as the site will be well separated both physically and visually from neighbouring dwellings and sufficiently enclosed by both natural and planted boundaries including hedgerow to blend in with the local

landscape, and the proposed design respects traditional patterns of settlement in the area, presenting as a one-storey house from the roadside.

I do not believe this proposal will create a ribbon of development or that its ancillary works will damage rural character, due to the spacing of the dwelling from neighbouring homes and the planting of native hedgerow along the roadside.

I am content that the proposed dwelling satisfies the criteria of CTY 13 as well as those of CTY 14.

### **Other Considerations**

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

### **Conclusion**

While I have no qualms regarding the actual design of the proposed dwelling, and building control state that the foundations were in place before the deadline of the 13<sup>th</sup> of March 2009, I do not believe that precommencement conditions 2 and 3 of I/2006/0008/RM have been met, and thus recommend that this proposal be refused, as the foundations this change of house type application relies on were not commenced lawfully.

### **Summary of Recommendation:**

Refuse is recommended

I believe this proposal should be approved as it meets both CTY 13 and 14 under PPS21, it does not infringe on any protected areas or zones, and no consultees or neighbours have filed objections or concerns upon consultation.

### **Refusal Reasons**

#### **Reason 1**

Mid Ulster District Council, having investigated and considered the evidence submitted,

is not satisfied that the required works on the site, namely the provision of adequate access and clearing of visibility splays, have been completed in accordance with conditions no. 2 and 3 of I/2006/0008/RM, which are pre-commencement conditions. As such, the development permitted by I/2006/0008/RM has not lawfully commenced and this proposed change of house type is therefore recommended to be refused.

**Signature(s):** Ciaran O'Neill

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5 December 2023
<b>Date First Advertised</b>	20 February 2024
<b>Date Last Advertised</b>	19 December 2023
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 64 Feegarran Road Cookstown Tyrone BT80 9QS The Owner / Occupier 1 Feegarran Lane Cookstown Tyrone BT80 9QT The Owner / Occupier 64A Feegarran Road Cookstown Tyrone BT80 9QS The Owner / Occupier 2 2B Feegarran Lane Cookstown Tyrone BT80 9QT The Owner / Occupier RNN - 75 Feegarran Road Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	8 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: I/2008/0072/F Proposals: Overhead Single Phase Line of Wooden Poles (07/04241) Decision: PG Decision Date: 21-MAY-08  Ref: I/1981/0283 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:  Ref: I/1981/028301 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:  Ref: I/1991/4048	

Proposals: Erection of Domestic Garage

Decision: PDNOAP

Decision Date:

Ref: I/2006/0008/RM

Proposals: Single storey dwelling & garage

Decision: PG

Decision Date: 21-JUN-07

Ref: I/2003/0953/O

Proposals: Site for Dwelling & Garage

Decision: PG

Decision Date: 10-DEC-03

Ref: LA09/2023/1311/F

Proposals: Dwelling and domestic garage (change of house type and garage from that previously approved under I/2006/0008/RM including relocation of garage within extended curtilage)

Decision:

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-This consultation is duplicated. DFI response on 27th February 2024.

DFI Roads - Enniskillen Office-Roads Consultation - Approval.docx

DFI Roads - Enniskillen Office-DC Checklist 1.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Elevations and Floor Plans Plan Ref: 03

Garage Plans Plan Ref: 04

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

Not Applicable



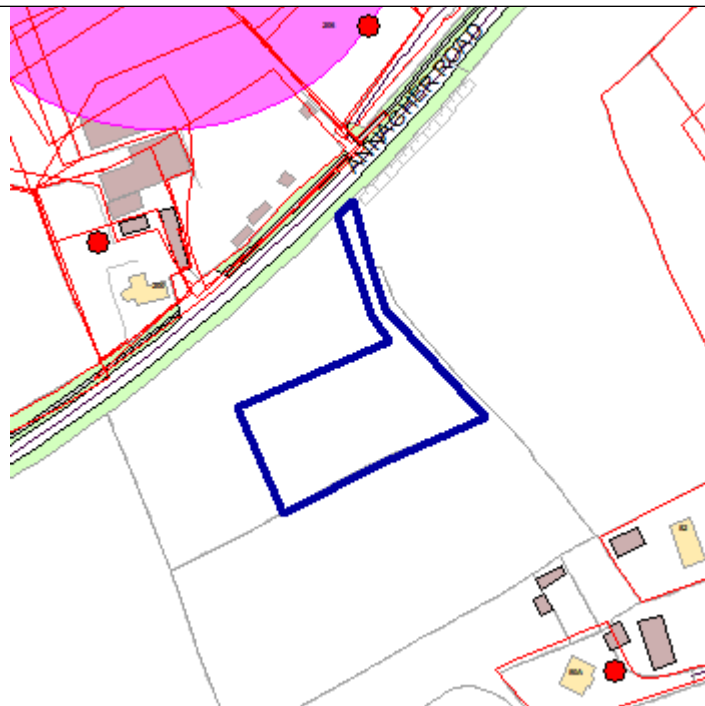


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2023/1374/F	<b>Target Date:</b> 1 April 2024
<b>Proposal:</b> Farm Shed for Feeding & Shelter Area, Storage Area & Underground Slurry Tanks	<b>Location:</b> 76M South East of 200 Annagher Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr James McGrath 200 ANNAGHER ROAD DUNGANNON BT71 5DA	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>  No third party representations have been received.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DAERA - Omagh	LA09-2023-1374-F.DOCX
Statutory Consultee	DAERA - Omagh	LA09-2023-1374-F.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2023.1374.F.pdf
Statutory Consultee	NIEA	PRT LA09-2023-1374-F.pdf
Statutory Consultee	Shared Environmental Services	LA09-2023-1374-F HRA FIR 20.03.2024.pdf
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	Shared Environmental Services	
Statutory Consultee	NIEA	
Statutory Consultee	Shared Environmental Services	

### Representations:

Letters of Support	0
Letters Non Committal	0

Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<p><b>Summary of Issues</b></p> <p>The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been satisfactorily demonstrated that:-</p> <p>there is an active and established agricultural or forestry holding;</p> <p>it is necessary for the efficient use of the active and established agricultural holding;</p> <p>there are no suitable existing buildings on the holding or enterprise that can be used;</p> <p>the proposal is sited beside existing farm buildings;</p> <p>there are no alternative sites available at another group of buildings on the holding;</p> <p>health and safety reasons exist to justify an alternative site away from the existing farm buildings; and</p> <p>that the alternative site is essential for the efficient functioning of the business.</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The site is in the countryside and outside any settlement limits defined in the Dungannon and South Tyrone Area Plan 2010. The site is 1.07km east of the settlement limit of Coalisland and the surrounding land uses are agricultural fields, detached dwellings on single plots, groups of farm buildings and engineering/manufacturing businesses. Across the road from the site are a group of buildings associated with McGrath Engineering Ltd.</p> <p>The application site is a cut-out of a larger agricultural field with a roadside frontage to Annagher Road. The topography at the site slopes downwards slightly from the roadside to the rear boundary. Along the roadside boundary are a post and wire fence and established hedging. There is a row of large trees along the east boundary and hedging along the southern boundary.</p>	
<p><b>Description of Proposal</b></p> <p>This is a full application for farm shed for feeding &amp; shelter area, storage area &amp; underground slurry tanks at 76M Southeast of 200 Annagher Road, Dungannon.</p>	

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

### **Policy Consideration**

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

### **Representations**

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

### **Planning History**

There are no planning histories at the application site.

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

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

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

The site is located within the Greenbelt as defined in the Dungannon and South Tyrone Area Plan 2010. The introduction of PPS21 resulted in Greenbelts being removed and a new suite of policies for development in the countryside.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** The SPPS gives provision for Agriculture and Forestry Development subject to a number policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 12 of PPS 21.

### **PPS 2 – Natural Heritage**

This site is within 7.5km of Lough Neagh/Lough Beg Ramsar. Given the fact that the proposed development includes an underground slurry tank, it has the potential to produce ammonia emissions which may impact on these designated sites.

At the time of writing the following information from NED has not been requested as the

proposal does not meet the principle of development in CTY 12.

NIEA responded on the 15<sup>th</sup> March 2024 and requested further information is submitted. Water Management Unit in NIEA require details on the method of disposal of slurry from the development, dimensions of the underground slurry tank and details of any waste management licence and a drainage plan.

Natural Environment Division in NIEA have requested a Nutrient Management Plan and an Air Quality Impact Assessment.

Shared Environmental Services were consulted and responded on the 20<sup>th</sup> March 2024. It is stated they will respond when the information from NED and Water Management Unit has been received. As the proposal does not meet the principle of development this information has not been requested.

## **Planning Policy Statement 21**

### **Policy CTY 12 – Agricultural and Forestry Development**

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside PPS21 is the overarching policy for development in the countryside. Policy CTY 12 Agricultural and Forestry Development states that planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore, it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years. DAERA confirmed in their consultation response dated 19<sup>th</sup> February 2024 that the applicant is a category 1 farmer and his DAERA business ID was allocated on the 28<sup>th</sup> September 2023. DAERA confirmed the business ID has not been established for over 6 years and the applicant has claimed no other farm subsidies in the past 6 years. DAERA have stated the site was claimed by another farm business in 2023 and no details of this farmer have been provided. I do not consider there is an active and established farm holding at the application site, so this proposal fails this criterion in CTY 12.

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

The applicant, Mr McGrath lives at 200 Annagher Road which is a two storey dwelling across the road from the site. No supporting statement has been provided about why the shed is necessary for the efficient use of the farm holding. The agent has stated in an email dated 31<sup>st</sup> January 2024 that the applicant's intention is to purchase spring heifers which are to be housed in the proposed shed and the applicant has no other buildings on the farm holding. At the time of writing no details about the numbers of existing animals held by the applicant have been received. Having assessed the evidence, I consider the proposed shed is not necessary for the efficient use of the agricultural holding.

The application site is a portion of a larger agricultural field with a slightly sloping topography and a roadside frontage to Annagher Road. The proposed shed is 6.6m in

height, 42m in width and a T-shaped form as shown in figure 1 below. Travelling from the northeast direction there are no critical views of the shed due to established trees along the boundary which will be retained. Travelling from the southwest direction is a long straight road and there are long distance views of the proposed shed. Additional hedging has been shown on the block plan around the shed. I consider the shed will not be a prominent feature in the landscape as there are several sheds at McGrath Engineering across the road and there are large two-storey dwellings across the road from the site.

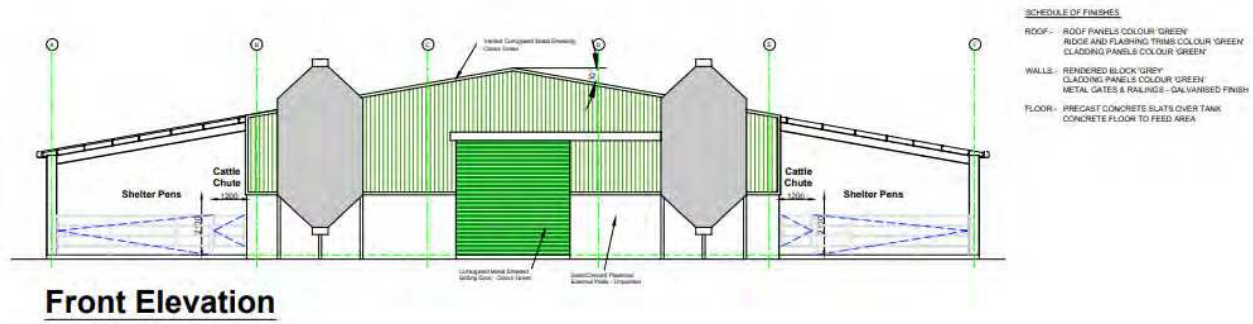


Figure 1 – Image of proposed shed

As the proposal is for cattle shed NIEA and Shared Environmental Services were consulted. At the time of writing, I am still awaiting responses from SES, but it is considered the principle of development has not been met with the proposal.

The site is within the statutory 200m buffer zone of rath TYR047:016 so Historic Environment Division were consulted and responded with no concerns. I am content there will not be an unacceptable impact on the built heritage.

In terms of neighbouring amenities, Environmental Health were consulted and responded on the 12<sup>th</sup> March 2024. They state the nearest 3<sup>rd</sup> party dwelling is located approximately 85.8m southeast of the red boundary line. Environmental Health state the development is located in close proximity to residential properties and there should be an informative about ensuring adequate steps are taken during construction to control noise and dust. Otherwise Environmental Health raised no other concerns about the proposal.

The agent has stated in an email dated 31<sup>st</sup> January 2024 there are no other buildings on the farm holding. Farm boundary maps have been supplied which show the holding comprises of a two storey dwelling at 200 Annagher Road, the site across the road and 3no. fields to the rear. There are several sheds adjacent to the dwelling at No.200 but these are part of McGrath Engineering Ltd. I am content there are no suitable existing buildings on the farm holding.

The proposed shed will have external finishes of green corrugated metal sheeting which is characteristic of an agricultural building. I have no concerns with the design and materials of the shed.

The proposal is not sited beside existing farm buildings so fails this criterion in CTY 12.

As stated above, this is the first agricultural building at this location and therefore it is not sited beside any existing farm buildings. An exception may be made to this policy test provided there are no other sites available at another group of farm buildings on the holding or where it is essential for the functioning of the business or there are health and safety reasons.

I consider there are no existing farm buildings and the main building on the farm is the two storey dwelling at No.200. No reasoning has been provided why the shed is essential. CTY 12 does not provide for new start up farms where the farm business is not active and established and there are no group of farm buildings.

No reasoning has been provided why the shed is essential for the functioning of the existing farm business and no health and safety reasons have been provided.

Having accessed all the evidence, I consider the proposal does not meet all the criteria in CTY 12.

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

As stated earlier in the assessment I consider the proposal will not be a prominent feature in the landscape. The site has a slightly sloping topography, and additional landscaping has been proposed around the site. The shed has the appearance of an agricultural building so I am content the shed will integrate at the site.

### **CTY 14 – Rural Character**

I consider the proposal will not be a prominent feature in the landscape as it is an agricultural building. I am content the agricultural building will not have a detrimental effect on rural character. There are several sheds across the road for McGrath Engineering at 200 Annagher Road and a number of large dwellings in the immediate area.

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

#### **AMP 2 – Access to public roads**

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

I consider the proposal to be an intensification of existing agricultural access, so DFI Roads were consulted. Roads responded on the 9<sup>th</sup> January 2024 stating they were content with the proposal subject to visibility splays of 2.4m x 90m in both directions.

### **Other Considerations**

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

A porous stoned area has been shown around the shed and I consider as the area will not be hard standing or concrete a drainage assessment is not required in this instance.

**Summary of Recommendation:**

Refuse is recommended

I recommend the proposal for refusal as it does not meet all the criteria in CTY 1 and CTY 12 in PPS 21.

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been satisfactorily demonstrated that:-

there is an active and established agricultural or forestry holding;  
it is necessary for the efficient use of the active and established agricultural holding;  
there are no suitable existing buildings on the holding or enterprise that can be used;  
the proposal is sited beside existing farm buildings;  
there are no alternative sites available at another group of buildings on the holding;  
health and safety reasons exist to justify an alternative site away from the existing farm buildings; and  
that the alternative site is essential for the efficient functioning of the business.

**Signature(s):** Gillian Beattie

**Date:** 15 March 2024



<b>ANNEX</b>	
<b>Date Valid</b>	18 December 2023
<b>Date First Advertised</b>	9 January 2024
<b>Date Last Advertised</b>	9 January 2024
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 200 Annagher Road Coalisland BT71 5DA The Owner / Occupier RNN 206 Annagher Road Coalisland BT71 5DA The Owner / Occupier 208 Annagher Road Coalisland BT71 5DA	
<b>Date of Last Neighbour Notification</b>	19 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2023/1374/F Proposals: Farm Shed for Feeding & Shelter Area, Storage Area & Underground Slurry Tanks Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DAERA - Omagh-LA09-2023-1374-F.DOCX DAERA - Omagh-LA09-2023-1374-F.DOCX DFI Roads - Enniskillen Office-Full Resp.docx Environmental Health Mid Ulster Council-LA09.2023.1374.F.pdf NIEA-PRT LA09-2023-1374-F.pdf Shared Environmental Services-LA09-2023-1374-F HRA FIR 20.03.2024.pdf Historic Environment Division (HED)- DFI Roads - Enniskillen Office-Full Resp.docx Environmental Health Mid Ulster Council- Shared Environmental Services- NIEA- Shared Environmental Services-	

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2023/1381/O	<b>Target Date:</b> 2 April 2024
<b>Proposal:</b> Dwelling and garage (infill)	<b>Location:</b> 35M SE of 37 Ballynacross Road, Knockloghrim
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> T Elliott Esq 23 Ballynacross Road Knockloghrim Magherafelt BT45 8PY	<b>Agent Name and Address:</b> Russell Finlay 350 Hillhead Road Knockloughrim Magherafelt BT45 8QT
<b>Executive Summary:</b> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 8, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 8 and 14 therefore it is recommended for refusal.</p> <p>This proposal fails to meet Policy CTY 8 of PPS 21 as the gap under consideration is of a size that it could accommodate more than two dwellings. The gap site consists of two planning applications, one of which is to be considered under planning application LA09/2023/1385/O.</p> <p>A consultation request was sent to DFI Roads which has raised no concerns.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is approximately 0.93km northeast of the development limit of Knockloughrim. The site is currently identified as lands 35M southeast of 37 Ballynacross Road, Knockloughrim; the site comprises of a rectangular segment of land, the topography of which is relatively flat. The site is currently bounded by mature trees

and hedgerow on all boundaries. I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings, sprawling agricultural fields and dispersed farm complexes.

### **Description of Proposal**

This is an outline application for a proposed site of dwelling and garage.

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

#### **Policy Consideration**

#### **Representations**

Two (2) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date no third party representations have been received.

#### **Relevant Planning History**

Reference: H/2005/0901/O, Proposal: Site of dwelling and garage, Location: 90M S Of 37 Ballynacross Road, Knockloughrim, Decision and Date: Permission Refused 14.02.2007.

Reference: LA09/2023/1385/O, Proposal: Dwelling and garage (infill), Location: 85M SE of 37 Ballynacross Road, Knockloughrim, Decision and Date: Pending Consideration.

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

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

The Magherafelt Area Plan 2015 identifies the site as being in the rural countryside, approximately 0.93km northwest of Knockloughrim. There are no other zonings or designations within the Plan.

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the

favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Ballynacross Road. DFI Roads have no concerns subject to visibility splays of 2.4m x 60m as per the RS1 form, if approved this will be conditioned to be complied with at Reserved Matters stage.

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

#### Policy CTY 1- Development in the Countryside

Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21.

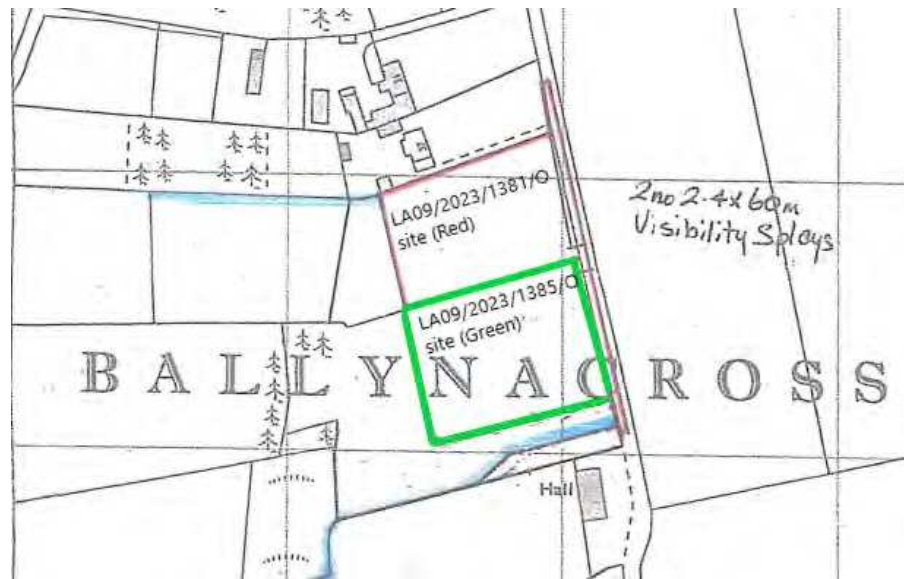
#### CTY 8 - Ribbon Development

Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage

in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Policy CTY 8 also states that planning permission will be refused for applications which create or add to ribbon development in the countryside. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It is important to note that the applicant is applying for a dwelling and garage under the same policy under planning application LA09/2023/1385/O on lands north of the site (see figure 1).

Figure 1 (Courtesy of agent site location map)



Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. I do not believe this application site can be considered as a small gap site sufficient only to accommodate up to a maximum of two houses.

Between the dwelling at No. 37 Ballynacross Road and the building No. 39 Ballynacross Road there is a gap of approximately 116 metres (Figure 2). The plot of frontage of No. 37 is approximately 28m, and the plot size of No. 39 is approximately 45m. Therefore, the size of this gap can be considered significantly greater than the average plot size and could accommodate more than two dwellings.

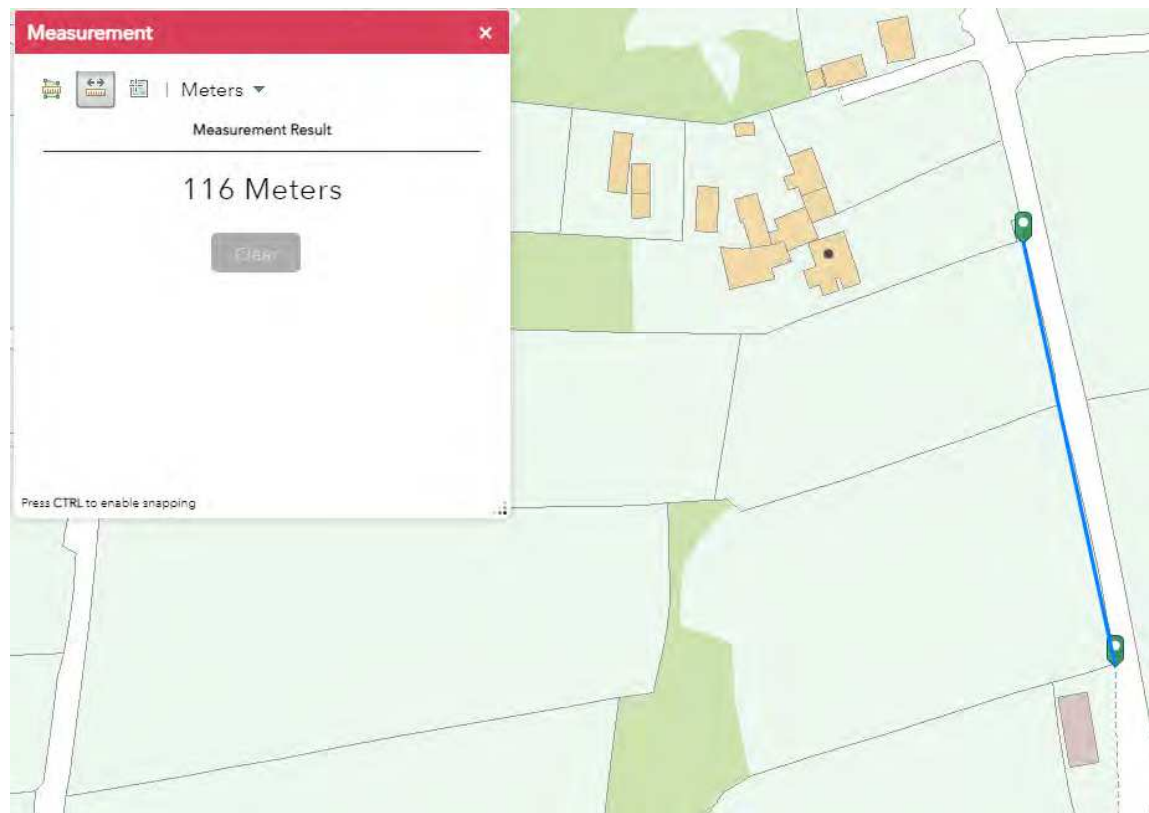
Furthermore, the gap site in question currently appears as a visual break between the small cluster of development to the North and to a degree, a cluster of development to the south. I hold the view that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the proposed will erode on the rural character of the area and will extend a ribbon of development.

With regard to the built-up frontage, I hold the view that dwelling No.31 and No.37 north of the site, alongside the building No.39 south of the site hold a common built-up frontage and as such I am content the application meets this policy test of CTY 8.

Overall, I am of the opinion that the proposed does not comply and is contrary to Policy

CTY 8.

Figure 2 (imagine from Mid Ulster Council Ortho)



CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.

CTY 14 - Rural Character

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I note that this application has failed under Policy CTY 8, therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.



## **Other Considerations**

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

The site is not located within or adjacent to any listed building / structures.

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

## **Habitats Regulations Assessment**

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

## **Summary of Recommendation:**

Refuse is recommended

## **Refusal Reasons**

### **Reason 1**

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

### **Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would create a ribbon of development along the Ballynacross Road.

### **Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, create a ribbon of development along this section of the Ballynacross Road.

**Signature(s):** Ciara Carson

**Date:** 26 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	19 December 2023
<b>Date First Advertised</b>	9 January 2024
<b>Date Last Advertised</b>	9 January 2024
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 39 Ballynacross Road Knockcloghrim Magherafelt Londonderry BT45 8PY The Owner / Occupier 37 Ballynacross Road, Magherafelt, Londonderry, BT45 8PY	
<b>Date of Last Neighbour Notification</b>	21 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2023/1381/O Proposals: Dwelling and garage (infill) Decision: Decision Date:  Ref: H/2006/0670/F Proposals: Proposed Kitchen extension to rear, utility room and sun room extension to side of existing dwelling Decision: PG Decision Date: 20-OCT-06  Ref: LA09/2023/1385/O Proposals: Dwelling and garage (infill) Decision: Decision Date:  Ref: H/1978/0315 Proposals: PORCH AND ALTERATIONS AND ADDITIONS TO BUNGALOW Decision: PG Decision Date:  Ref: H/2005/0901/O	

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 22-FEB-07

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2023/1385/O	<b>Target Date:</b> 2 April 2024
<b>Proposal:</b> Dwelling and garage (infill)	<b>Location:</b> 85M SE of 37 Ballynacross Road, Knockloghrim
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> T Elliott Esq 23 Ballynacross Road Knockcloghrim Magherafelt BT45 8PY	<b>Agent Name and Address:</b> Russell Finlay Building Design Consultant 350 Hillhead Road Knockcloughrim Magherafelt BT45 8QT
<b>Executive Summary:</b> <p>This proposal has been assessed under all relevant policy and guidance, that is the SPPS, the Magherafelt Area Plan 2015, PPS3, PPS 21 (CTY 1, 8, 13 AND 14). Issues raised by the Planning Department include conflict with planning policy 21 specifically CTY 1, 8 and 14 therefore it is recommended for refusal.</p> <p>This proposal fails to meet Policy CTY 8 of PPS 21 as the gap under consideration is of a size that it could accommodate more than two dwellings. The gap site consists of two planning applications, one of which is to be considered under planning application LA09/2023/1381/O.</p> <p>A consultation request was sent to DFI Roads which has raised no concerns.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the open countryside as defined in the Magherafelt Area Plan 2015. The site is approximately 0.93km northeast of the development limit of Knockloughrim. The site is currently identified as lands 85M southeast of 37 Ballynacross Road, Knockloughrim; the site comprises of a rectangular segment of land, the topography of which is relatively flat. The site is currently bounded by mature trees

and hedgerow on all boundaries. I note that the immediate surrounding area is characterised by a mixture of single detached residential dwellings, sprawling agricultural fields and dispersed farm complexes.

### **Description of Proposal**

This is an outline application for a proposed site of dwelling and garage.

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

#### **Policy Consideration**

#### **Representations**

Three (3) neighbouring properties were notified, and press advertisement was carried out in line with the Council's statutory duty. To date no third party representations have been received.

#### **Relevant Planning History**

Reference: H/2005/0901/O, Proposal: Site of dwelling and garage, Location: 90M S Of 37 Ballynacross Road, Knockloughrim, Decision and Date: Permission Refused 14.02.2007.

Reference: LA09/2023/1381/O, Proposal: Dwelling and garage (infill), Location: 35M SE of 37 Ballynacross Road, Knockloughrim, Decision and Date: Pending Consideration.

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

- Magherafelt Area Plan 2015
- SPPS - Strategic Planning Policy Statement for Northern Ireland
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3: Access, Movement and Parking
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

The Magherafelt Area Plan 2015 identifies the site as being in the rural countryside, approximately 0.93km northwest of Knockloughrim. There are no other zonings or designations within the Plan.

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. It does not present any change in policy direction therefore existing policy applies, the primary consideration being PPS21 – Sustainable Development in the Countryside.

The SPPS gives provision for development in the countryside subject to a number policy provisions, including CTY 8 of PPS 21 which deals with Ribbon Development. There has been no change in policy direction in the SPPS in respect of Ribbon Development therefore Policy CTY 8 of PPS 21 remains my primary policy consideration in this assessment.

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

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so as far as material to the application, and to any other material considerations. Sections 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Ballynacross Road. DFI Roads have no concerns subject to visibility splays of 2.4m x 60m as per the RS1 form, if approved this will be conditioned to be complied with at Reserved Matters stage.

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

#### Policy CTY 1- Development in the Countryside

Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. In this instance the application is for an infill dwelling and as a result the development must be considered under CTY 8 of PPS 21.

#### CTY 8 - Ribbon Development

Policy CTY 8 of PPS 21 states that planning permission will be refused for applications which create or add to ribbon development in the countryside. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. Policy CTY 8 also states that planning permission will be refused for applications which create or add to ribbon development in the countryside. A substantial and built-up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.



It is important to note that the applicant is applying for a dwelling and garage under the same policy under planning application LA09/2023/1381/O on lands north of the site (see figure 1).

Figure 1 (Courtesy of agent site location map)



Having assessed the site and surrounding area I do not consider the site meets with the requirements of Policy CTY 8. I do not believe this application site can be considered as a small gap site sufficient only to accommodate up to a maximum of two houses.

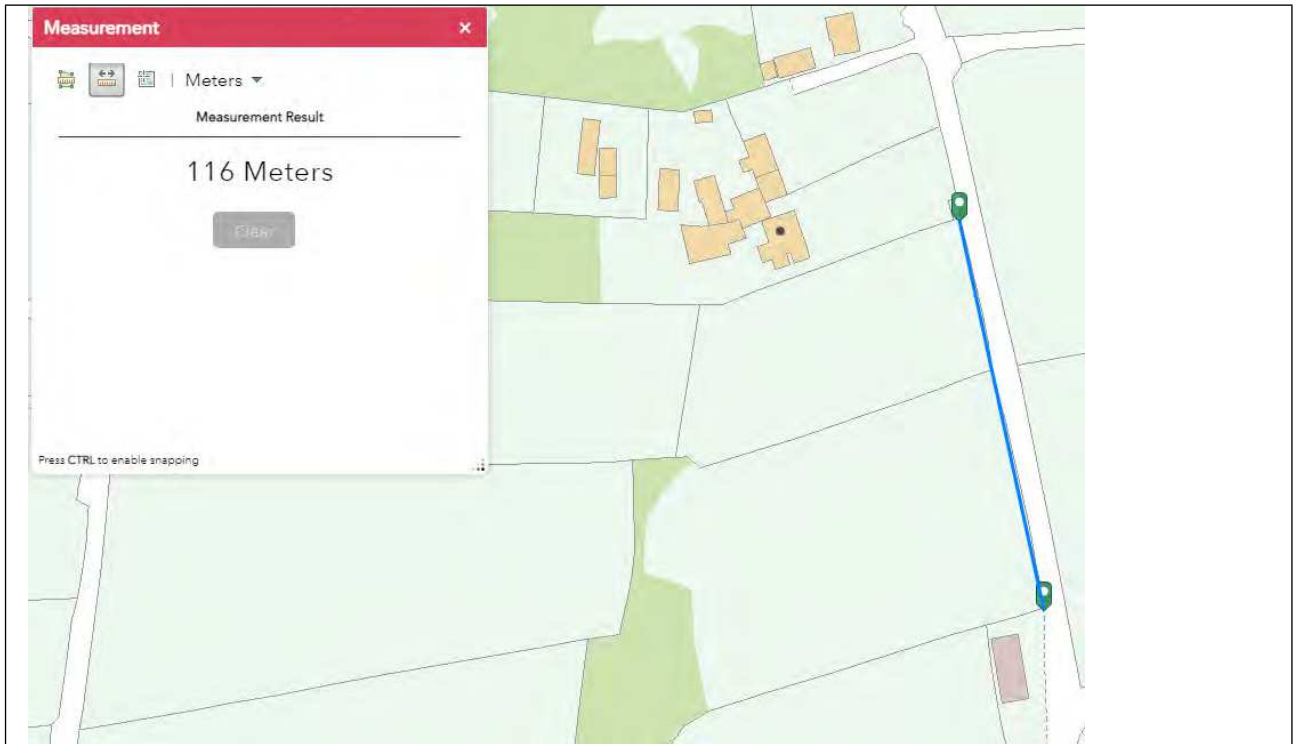
Between the dwelling at No. 37 Ballynacross Road and the building No. 39 Ballynacross Road there is a gap of approximately 116 metres (Figure 2). The plot of frontage of No. 37 is approximately 28m, and the plot size of No. 39 is approximately 45m. Therefore, the size of this gap can be considered significantly greater than the average plot size and could accommodate more than two dwellings.

Furthermore, the gap site in question currently appears as a visual break between the small cluster of development to the North and to a degree, a cluster of development to the south. I hold the view that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the proposed will erode on the rural character of the area and will extend a ribbon of development.

With regard to the built-up frontage, I hold the view that dwelling No.31 and No.37 north of the site, alongside the building No.39 south of the site hold a common built-up frontage and as such I am content the application meets this policy test of CTY 8.

Overall, I am of the opinion that the proposed does not comply and is contrary to Policy CTY 8.

Figure 2 (imagine from Mid Ulster Council Ortho)



### CTY 13 - Integration and Design of Buildings in the countryside

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. I note that this is only an outline application therefore no design details have been submitted however, given the landform and landscape, and the proposed concept plan provided by the agent, I believe that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping would be required to aid integration therefore a landscaping scheme would be required in any reserved matters application. From which, I am content that the application is able to comply under CTY 13.

### CTY 14 - Rural Character

Policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not appear prominent in the landscape. I note that this application has failed under Policy CTY 8, therefore it will erode rural character and will extend a ribbon of development. It is therefore considered the proposal fails under Policy CTY 14.

### **Other Considerations**

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

The site is not located within or adjacent to any listed building / structures.

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

### **Habitats Regulations Assessment**

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

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within a substantial and continuously built up frontage. If permitted this development would create a ribbon of development along the Ballynacross Road.

#### **Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21: Sustainable Development in the Countryside in that it would result in a detrimental change to the rural character of the countryside, in that the two dwellings would, if permitted, create a ribbon of development along this section of the Ballynacross Road.

**Signature(s):** Ciara Carson

**Date:** 26 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	19 December 2023
<b>Date First Advertised</b>	9 January 2024
<b>Date Last Advertised</b>	9 January 2024
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 39 Ballynacross Road Knockcloghrim Magherafelt Londonderry BT45 8PY The Owner / Occupier 37 Ballynacross Road, Magherafelt, Londonderry, BT45 8PY	
<b>Date of Last Neighbour Notification</b>	21 December 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2023/1385/O  Proposals: Dwelling and garage (infill)  Decision:  Decision Date:</p> <p>Ref: LA09/2023/1381/O  Proposals: Dwelling and garage (infill)  Decision:  Decision Date:</p> <p>Ref: H/2005/0901/O  Proposals: Site of dwelling and garage.  Decision: PR  Decision Date: 22-FEB-07</p> <p>Ref: H/2006/0173/O  Proposals: Site of Dwelling &amp; garage  Decision: PG  Decision Date: 19-JUN-06</p>	

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2023/1402/LDP	<b>Target Date:</b> 15 February 2024
<b>Proposal:</b> Completion of detached dwelling (site 31) as per planning permission H/2005/0601/F	<b>Location:</b> Lands 45M North-East of No 34 Moneyneany Road Moneyneany Draperstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Brendan Doyle 79 Dromdallagan Draperstown Magherafelt BT45 7EY	<b>Agent Name and Address:</b> Mr Dermot Monaghan 4 College House Citylink Business Park Belfast BT12 4HQ
<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	

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is located within the settlement Limits of Moneyneena, according to the Magherafelt Area Plan 2015. It is in a semi-rural area on the outskirts of the developed portion of the village, opposite both St Eugenes Church and Moneyneena Graveyard. Present on the site are foundations built in 2013 according to a Building Control

statement provided by the applicant.

The site lies within both a Local Landscape Policy Area ( ) and Site of Local Nature Conservation Importance

### **Description of Proposal**

This is an LDP application proposing the completion of a detached dwelling on site 31, as per previously approved planning permission H/2005/0601/F.

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

#### **Policy Consideration**

#### **Site History (Last 5 years)**

H/2005/0601/F – Housing development (4 No detached dwellings, 6 No semi-detached dwellings and 12 No terraced dwellings and 10 No apartments). - Permission Granted

#### **Other Histories**

N/A

#### **Planning Act (Northern Ireland) 2011**

Section 170 of the Planning Act (NI) 2011 make provision for the issue of a Certificate of Lawfulness of Proposed Use or Development (CLPUD). Section 170 (1) states that if any person wishes to ascertain whether – (a) any proposed use of buildings or other land; or (b) any operations proposed to be carried out in, on, over or under land, would be lawful, that person may make an application for the purpose to the appropriate Council specifying the land and describing the use or operations in question. Section 170 (2) indicates that if, on an application under this section, the Council is provided with information satisfying it that the use or operations described in the application would be lawful if instituted or begun at the time of application, it must issue a certificate to that effect; and in any other case it shall refuse the application.

#### **Assessment**

The description of the proposal on the accompanying cover letter with the application reads as follows:



“This letter encloses an application on behalf of Mr Brendan Doyle for a Lawful Development Certificate (LDC) to confirm that it is lawful to complete the construction of a detached dwelling on land 45 metres north-east of No 34 Moneyneany Road, Moneyneany”

The main issue is whether the development has lawfully commenced to allow the completion of the development of a detached dwelling (site 31) as per planning permission H/2005/0601/F. Therefore, the assessment of the application will be to determine whether the work carried out thus far is sufficient to constitute commencement of development; accord with the stamped approved plans; and pre-commencement conditions were satisfactory implemented before the development commenced.

Full planning permission was granted on the site on 28<sup>th</sup> October 2008, under permission H/2005/0601/F (referred to as “the 2008 permission” and provided as appendix 1 in the supporting statement) subject to 14 planning conditions.

Condition 1 states

Therefore, the key date for the development to be lawfully commenced before the expiration date was the 28<sup>th</sup> of October 2013.

The applicant is relying on foundations and an individual access being implemented at site 31 prior to the deadline of 28<sup>th</sup> October 2013 to establish the lawful commencement of planning permission H/2005/0601/F. To support this the following evidence has been submitted:

- i. Initial Planning Permission H/2005/0601/F
- ii. An invoice and letter from Building Control (Listed as Appendix 2 in the supporting statement submitted)
- iii. Aerial photo to the date of the works was taken on 16<sup>th</sup> June 2014, showing the foundations in place

### **Case Law**

The applicant points towards established case law, Initially they discuss how “**F.G Whitley & Sons V Secretary of State for Wales and another ((1992) 3 PLR 72)**” set a precedent that if a development contravened a pre-commencement condition, it would not be properly described as commencing the development authorised by permission, more commonly known as “the Whitley Principle”.

Following this they refer to the more recent case of “**Hart Aggregates Ltd V Hartlepool Borough Council (2005) (EWHC 840)**”, which they consider authority for the proposition that decision makers must consider how a condition was phrased, and the effect of the condition in context of the permission when deciding if it has been met.

The applicants also refer to “**Bedford BC v SOS for Communities and Local Government (2008) (EWHC 2304)**”, as another example of exception to the whitley principle; wherein landscaping and boundary treatment did not go to the heart of the planning permission so failure to obtain those approvals did not prevent implementation. “**Appeal 2011/E047**” was also referred to as upholding the verdict of this case.

In a similar vein, the applicants presented “**Greyfort Properties Ltd V SOS for Communities and Local Government (2011) EWCA Civ 908 (2012)**” as further endorsing Hart’s approach regarding the need to avoid being unduly rigid when applying the whitley principle, where it would produce absurd results and run contrary to the underlying purpose of policy or legislation. **The applicants also state that paragraph 29 of “Blackwood V Derry and Strabane District Council [2018] NIQB 87”** repeats this caution against an over rigid or over literal application of the Whitley principle.

“**Hammerton v London Underground Ltd [2002] EWHC 2307 (Admin) 133**” is another case submitted by the applicant to exemplify that in situations “**where it would be unlawful, in accordance with public law principles, notably irrationality or abuse of power, for a local planning authority to take enforcement action to prevent development proceeding, the development albeit in breach of planning control is nevertheless effective to commence development.**”

For the purposes of this report, we can summarise the three key legal arguments supported by case law that the applicant and agent have proposed as supportive and informative of their case;

- A. How a condition is phrased, as well as the effects of that condition in context of the permission, should be taken into account, when making a decision.
- B. A pre-commencement condition must go to the heart of the actual permission, otherwise failure to obtain approval will not prevent implementation.
- C. The Whitley Principle must not be enforced with undue rigidity, and cannot be pursued at the expense of public law principles.

The Planning Act does not define what exactly constitutes a lawful commencement of a planning permission, however Section 63(2)(a) refers to “any work of construction in the course of the erection of the building”. In this case that would refer to the implementation of the foundations of Site 31.

*“building” includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building.*

Therefore, I am satisfied that the foundations at site 31 are a structure and essentially considered as a “building” as defined in the Planning Act. I will proceed to assess the application using the text highlighted above.

I inspected the site on 26<sup>th</sup> January 2024. On site it was evident that excavations had

occurred, and an initial set of foundations built, albeit they were heavily overgrown with multiple young coniferous trees, as well as some lesser scrub and other vegetation. The foundations present fit the footprint of the dwelling planned for Site 31 within Drawing 17/6 dated May 2005, from H/2005/0601/F. I note that the elements of proposed footpath present within the area outlined in blue (Drawing 51/1) were not present.

The supporting statement document submitted for this application suggests that the excavation and building works present at Site 31 were carried out and built on the 25<sup>th</sup> of September 2013. To support this, the applicant provided an invoice and letter (dated 25<sup>th</sup> September 2013 and 19<sup>th</sup> October 2023 respectively) from building control, confirming that “work commenced on the above development (H/2005/0601/F) on 25<sup>th</sup> September and inspections have been made at the various stages as the work proceeded. From our records it would appear that there are no contraventions under Building Regulations. Work on site is not yet complete.”

I must note that despite the evidence and confirmation of commencement by Building Control, this does not mean that the *planning* regulations or conditions for lawful commencement have been met, only that development has commenced and it has not breached building regulations in doing so.

From orthophotography, it can be seen that by the 16<sup>th</sup> of June 2014, the foundations and localized access for Site 31 were in place, but the most recent set of orthophotography of the site prior to then dates back to 2012, before the date when commencement is alleged to have happened in September 2013, meaning there is no direct orthographical evidence that the foundations were implemented by the date specified, and could have been installed following the deadline but before the 2014 orthophotography was taken.



APPLICATION NUMBER – LA09/2023/1402/LDP  
ACKN



Based on the evidence submitted by the applicant and despite the historic ortho imagery however, I am half-satisfied that the excavation and construction of foundations for Site 31 were carried out before the deadline of 28<sup>th</sup> October 2013, however I do not believe that these foundations were implemented in accordance with the pre-commencement conditions of H/2005/0601/F, which will be examined below.

### **Pre-Commencement Conditions**

Planning permission H/2005/0601/F is subject to three pre-commencement conditions (Conditions 8, 11 and 12) that must be discharged prior to commencement of the approved development:

**Condition 8.** The erection of fencing for the protection of any retained tree shall be undertaken before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or

placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made or any other works carried out, or fires lit without the written consent of the Department.

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

**Condition 11.** The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No part of the development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 51/1 bearing the Planning Service date stamp 15 August 2008. 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.

**Condition 12.** The visibility splays of 4.5 metres by 100 metres to the North West and 4.5 metres by 80 metres to the South East at the junction of the proposed housing access road with the public road, shall be provided in accordance with the approved plans, prior to the commencement of any works or other development.

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

In regards to condition 8, the applicant argues that it does not satisfy the Whitley Principle, as firstly it does not expressly prohibit the start of development, a factor that was found to be crucial in appeal 2022/E0015. Secondly, as the trees to be retained and covered by this condition are also protected under conditions 4 and 5 of H/2008/0601/F, there is no necessity to provide protective fencing. Thirdly, they claim that as the trees covered by condition 8 are located on the Eastern Boundary (100m from Site 31) and the trees are still in place and have not been affected by the works at Site 31 (although a fence is now in place to protect them according to the supporting statement), then it would be irrational to take enforcement action in relation to the commencement works as the objective of condition 8 (protecting the trees) has not been undermined. On this point I find myself in agreement – the trees to be retained now have a fence protecting them, and Ste 31 is 100 metres away from them, so there is no risk towards them and they were not harmed by the construction of Site 31s foundations.

In regards to condition 11, the applicant argues in their supporting statement that firstly,

the works outlined in Blue on Drawing Number 51/1 primarily relate to the provision of the access to the site from Moneyneany Road including visibility splays, and the visibility splays were in place before Site 31 was developed. Secondly they argue that while the access at Moneyneany Road has not actually been provided, that this is not necessary for development to commence at Site 31 as said access does not serve it, as Site 31 has its own access open to the Five Mile Straight. They also posit that while the Blue line on Drawing 51/1 does extend along the front of site 31 on the Five Mile Straight, the requirement to carry out the works within the blue area there serves ‘no meaningful purpose’ because the blue line is not sufficiently large enough to encompass the proposed footway on the Five Mile Straight, the accesses to the proposed houses along it or their visibility splays – therefore in the applicants eyes condition 11 does not really require these.

Finally in relation to condition 11, they state that given condition 11’s utility is ‘essentially limited to requiring the access at Moneyneany Road to be provided, and Site 31 does not rely on this access, condition 11 was not necessary for the commencement of development on site 31, and when development commences on the part of the site that does rely on this access from Moneyneany Road, the access there would be delivered at that point, and done under the Private Streets Order as the access will be within land under DFI control, hence condition 11 would not be undermined.

On this set of arguments I find myself in contention with the applicants argument, firstly because the works outlined in Blue on Drawing Number 51/1 are necessary to provide a proper, safe and convenient means of access to the development, and thus go to the heart of the permission (including the elements of footpath along the Five Mile Straight).

The provision of visibility splays without the implementation of the actual access required in the same Blue Outline does not favour the applicants position, nor does saying that said access will be built at a later date following development at Site 31; Condition 11 goes to the heart of permission H/2008/0601/F, as it is necessary to provide proper, safe and convenient means of access to the entire development, *before* any other development begins. Despite the applicants perception, the small area of footpath marked in front of Site 31 in Drawing 51/1 is necessary for safe pedestrian access, as while it would not include a lot of actual footway, it *would* include a kerb to prevent road traffic displacing pedestrians on the remainder of footway to be built later, and link with the internal footways of the wider development, greatly increasing the convenience of access for people going to and from the site. Site 31 may not require access to be built at Moneyneany Road, but the wider development that H/2008/0601/F permitted does, therefore I strongly disagree with the applicants arguments regarding Condition 11.

The applicant argues that they meet condition 12, as the visibility splays required facing the Moneyneany Road have been put in place and the hedge is set back over 5 metres from the Road. I disagree with this claim, as Condition 12 explicitly requests that the visibility Splays “shall be provided in accordance with the approved plans, prior to the

commencement of any works or other development”, these approved plans include the area outlined in Blue in Drawing 51/1, which specifically comprises of the Road Access on Moneyneany Road as well as the Visibility Splays and other elements such as Footpath along the Five Mile Straight. Without implementing the visibility splays in accordance with the approved plans, including the Road Access on Moneyneany Road and other elements within the Blue Outline, I do not believe that Condition 12 has been met.

Upon consultation with the DFI Roads team, they determined that **X**

### **Conclusion**

On balance and having considered the evidence, it is my view that the permission of H/2005/0601/F has not begun in accordance with conditions 11 and 12 of the planning permission H/2005/0601/F, and that insufficient evidence has been provided to demonstrate that the permission of H/2005/0601/F has been commenced lawfully. As such, I am not satisfied that Permission should be granted for the commencement of Site 31.

### **Summary of Recommendation:**

Refuse is recommended

I believe this application must be refused, as conditions 11 and 12 (the latter being a precommencement condition) have not been met, thus subsequent development has not been implemented legally, and consequently the prior approval of H/2005/0601/F has expired.

### **Refusal Reasons**

#### **Reason 1**

An investigation into this case provides that the commenced works on the site, namely within the area marked in blue in Drawing 51/1 bearing date stamp 15 august 2008 were not completed in accordance with Condition 11 of H/2005/0601/F, which is a pre-commencement condition. A certificate of lawful development is therefore refused.



**Reason 2**

An investigation into this case provides that the commenced works on the site, namely the visibility splays, were not completed in accordance with condition no. 12 of H/2005/0601/F, which is a pre-commencement condition, as the splays were to be provided in accordance with the approved plans, and this did not occur. A certificate of lawful development is therefore refused.

**Signature(s):** Ciaran O'Neill

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	21 December 2023
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: H/1996/0334  Proposals: SITE OF DWELLING AND GARAGE  Decision: PG  Decision Date:</p> <p>Ref: H/1987/0431  Proposals: SITE OF DWELLING  Decision: WITHDR  Decision Date:</p> <p>Ref: H/1987/0432  Proposals: SITE OF DWELLING  Decision: WITHDR  Decision Date:</p> <p>Ref: H/1989/0272  Proposals: SITE OF DWELLING  Decision: PR  Decision Date:</p> <p>Ref: H/1998/0090  Proposals: REST AREA</p>	

Decision: PG  
Decision Date:

Ref: H/1991/0226  
Proposals: ALTS & ADDS TO HOUSE  
Decision: PG  
Decision Date:

Ref: H/1997/0514  
Proposals: ALTS AND ADDS TO PUBLIC HOUSE(RETROSPECTIVE)  
Decision: PG  
Decision Date:

Ref: H/1995/0005  
Proposals: KITCHEN EXTENSION TO PUBLIC HOUSE  
Decision: PG  
Decision Date:

Ref: H/1989/0598  
Proposals: CHURCH CAR PARK  
Decision: PG  
Decision Date:

Ref: H/1999/0199  
Proposals: IMPROVEMENTS TO DWELLINGS  
Decision: PG  
Decision Date:

Ref: H/2005/0868/RM  
Proposals: Dwelling and Garage  
Decision: PG  
Decision Date: 14-OCT-05

Ref: H/1996/0349  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/1990/0041  
Proposals: SITE OF DWELLING AND GARAGE  
Decision: PG  
Decision Date:

Ref: H/2003/0439/O  
Proposals: Site of housing development.  
Decision: PG

Decision Date: 12-NOV-04

Ref: H/1990/0040

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/1993/0108

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/1993/0113

Proposals: SITE OF DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/2008/0246/F

Proposals: Proposed 4No. semi-detached dwellings as part of the new housing development at Moneyneena Road (at junction of Five Mile Straight Road) as per application number H/2005/0601/F

Decision: PG

Decision Date: 17-NOV-08

Ref: LA09/2023/1402/LDP

Proposals: Completion of detached dwelling (site 31) as per planning permission H/2005/0601/F

Decision:

Decision Date:

Ref: H/1998/0076

Proposals: 3 NO.VILLAGE SIGNS

Decision: PG

Decision Date:

Ref: H/2005/0601/F

Proposals: Housing development (4 No detached dwellings, 6 No semi-detached dwellings and 12 No terraced dwellings and 10 No apartments).

Decision: PG

Decision Date: 29-OCT-08

## **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2024/0035/O	<b>Target Date:</b> 30 April 2024
<b>Proposal:</b> Proposed dwelling & garage	<b>Location:</b> 300M North of 74 Moneyhaw Road Drummullan Moneymore
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr Fergus Bell 74 Moneyhaw Road Drummullan Moneymore BT45 7XR	<b>Agent Name and Address:</b> C Mcllvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b> <p>The application is being presented to the Committee with the recommendation to approve as an exception to policy CTY 2a. The proposal meets all policy criteria except the cluster of development is not associated with a focal point. It is being presented as an exception to policy as although it does not fully meet the policy criteria, the site allows for a rounding off as there is development on two sides of the site, and the site benefits from strong existing screening which ensures a dwelling here will not impact on the rural character of the area. The site is located within the existing residential curtilage of No.74 Moneyhaw Road and although it is within the countryside, it appears when traveling along the public road that the development limits of the settlement limits have already expanded. As the site is within an already urban area, that being the existing residential curtilage of No.74, it is clearly part of rounding off, hence why the application is being recommended as an approval as an exception to policy.</p> <p>It is important to note planning application LA09/2023/0704/O was approved for a separate dwelling on this same site for these same reasons, and as such approval is recommended for this application.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline.docx DC Checklist 1.doc FORM RS1 STANDARD.doc

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is located within the open countryside, just outside the settlement limits of Drummullan, as per the Cookstown Area Plan 2010. The red line of the application site is a corner site, with the Moneyhaw Road bounding the site to the west

and the Drummullan Road bounding the site to the north. The site appears to be used as a private amenity space for the dwelling located immediately south and adjacent of the site identified as No. 74 Moneyhaw Road. The site is bounded on all sides by mature trees with views into the site currently very limited given the amount of screening. To the east of the site is a row of dwellings located within the countryside. The surrounding area is a mix with mainly agricultural land uses to the north and west of the site.

### **Description of Proposal**

This is an outline application for a proposed dwelling and garage. The site is located approximately 300m North of No. 74 Moneyhaw Road, Drummullan, Moneymore.

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

#### **Policy Consideration**

##### Representations

Three neighbour notification letters were issued in relation to this application, however no representations were received.

##### Relevant Planning History

LA09/2023/0704/O - Proposed dwelling & garage, 40M NE of 74 Moneyhaw Road, Drummullan, Moneymore. Permission granted - 29.11.2023

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

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

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 2a – New Dwellings in Existing Clusters

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside

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



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

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

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

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

Given the fact that LA09/2023/0704/O was approved for a dwelling in a cluster on this site on 29<sup>th</sup> November 2023, we have to hold material weight to this approval. Planning policy has not changed since this planning application were approved, and as such approval is recommended for this application.



Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore, no design details have been submitted however, I am of the opinion that an appropriately designed dwelling with a ridge height of 6m above finished floor level and with the existing boundaries retained it will provide a suitable degree of integration and ensure it is not a prominent feature in the landscape. I am content ancillary works will integrate with their surroundings and an appropriately designed dwelling would blend with the landform and other natural features.

Policy CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed building will not appear prominent in the landscape. I am content that this development can be viewed as part of an existing cluster and given the row of dwellings adjacent, a dwelling at this site would not change the character of the area given it is located within the existing residential curtilage of No. 74 with dwellings to either side, it can be considered rounding off.

**Other policy and material considerations**

PPS 3: Access, Movement and Parking

DfI Roads were consulted, and their response confirmed that they had no objection, subject to conditions. I am content that the access is acceptable under PPS 3.

I have no flooding, ecological or residential amenity concerns.

The proposal accords with the policy requirements of SPPS and PPS 21, therefore I recommend approval for this development.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

**Condition 2**

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

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

**Condition 3**

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

Reason: To ensure the dwelling integrates into the landform.

**Condition 4**

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

Reason: To ensure that the proposal is in keeping with the character of the area.

**Condition 5**

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form.

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

**Condition 6**

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

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

**Condition 7**

The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be submitted to Mid Ulster District Council in writing, and agreed, prior to the commencement of any works.

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

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

**Date:** 26 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	16 January 2024
<b>Date First Advertised</b>	30 January 2024
<b>Date Last Advertised</b>	30 January 2024
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 1A Drummullan Road Moneymore Londonderry BT45 7XS The Owner / Occupier 1 Drummullan Road Moneymore Londonderry BT45 7XS The Owner / Occupier 74 Moneyhaw Road Moneymore Londonderry BT45 7XR	
<b>Date of Last Neighbour Notification</b>	29 January 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: I/1992/0344  Proposals: Dwelling  Decision: PR  Decision Date:</p> <p>Ref: I/2003/0815/O  Proposals: Proposed dwelling and garage  Decision: PG  Decision Date: 10-MAR-04</p> <p>Ref: I/2001/0118/O  Proposals: Proposed Site for new Dwelling  Decision: PR  Decision Date: 20-FEB-02</p> <p>Ref: I/1996/0490  Proposals: Site for Dwelling  Decision: PR  Decision Date:</p>	

Ref: LA09/2016/1732/F

Proposals: Relocation of Dwelling and Garage as approved under I/2012/0330/F

Decision: PG

Decision Date: 09-FEB-17

Ref: LA09/2018/0409/F

Proposals: 2 bay extension to existing motor and farm machinery repairs

Decision: PG

Decision Date: 18-SEP-18

Ref: I/2002/0832/O

Proposals: Proposed site for new bungalow

Decision: PR

Decision Date: 21-MAY-03

Ref: I/1976/0150

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: I/2001/0738/F

Proposals: Replacement dwelling and garage

Decision: PG

Decision Date: 14-APR-02

Ref: I/2013/0029/O

Proposals: Erection of a farm dwelling

Decision:

Decision Date:

Ref: I/2008/0313/O

Proposals: Proposed domestic dwelling & garage with a restricted ridge height of 6 metres

Decision: PR

Decision Date: 20-JUL-10

Ref: I/2002/0316/O

Proposals: Site for bungalow and garage

Decision: PR

Decision Date: 14-OCT-02

Ref: I/1992/0330

Proposals: Improvements to dwelling

Decision: PG

Decision Date:

Ref: I/2009/0379/O

Proposals: Proposed site for dwelling.

Decision: PG

Decision Date: 17-FEB-11

Ref: I/1994/6125

Proposals: Dwelling Drummullan Road Drummullan

Decision: QL

Decision Date:

Ref: I/2003/0034/F

Proposals: 6no. detached dwellings and garages with new access road

Decision: PG

Decision Date: 29-JAN-04

Ref: I/2002/0327/F

Proposals: Replacement Dwelling

Decision:

Decision Date:

Ref: I/2003/0495/F

Proposals: Replacement dwelling

Decision: PG

Decision Date: 18-AUG-03

Ref: I/2002/0706/F

Proposals: Alterations and extension to existing dwelling

Decision: PG

Decision Date: 18-DEC-02

Ref: I/1991/0401

Proposals: Replacement Dwelling

Decision: PG

Decision Date:

Ref: I/1978/0261

Proposals: IMPROVEMENTS TO DWELLING

Decision: PG

Decision Date:

Ref: I/1990/6042

Proposals: Site for dwelling At junction of Drumullan Road/Moneyhaw Road Cookstown

Decision: QL

Decision Date:

Ref: I/1991/0067

Proposals: Two storey Dwelling

Decision: PR

Decision Date:

Ref: I/1991/6025

Proposals: Proposed site for Dwelling Moneyhaw Road Drumullan

Decision: QL

Decision Date:

Ref: LA09/2024/0035/O

Proposals: Proposed dwelling & garage

Decision:

Decision Date:

Ref: LA09/2023/0704/O

Proposals: Proposed dwelling & garage

Decision: PG

Decision Date: 29-NOV-23

Ref: LA09/2015/0053/F

Proposals: Proposed rural style dwelling on infill site South West of 1 Drummullan Road, Moneymore

Decision: PG

Decision Date: 30-JUN-15

Ref: I/2012/0144/PREAPP

Proposals: Gap site

Decision: ELR

Decision Date: 01-APR-14

Ref: LA09/2018/1281/O

Proposals: Infill dwelling and garage

Decision: PG

Decision Date: 29-JAN-19

Ref: I/1981/0318

Proposals: DOMESTIC DWELLING

Decision: PG

Decision Date:

Ref: I/1989/0015

Proposals: Proposed site for new dwelling

Decision: PR

Decision Date:

Ref: I/2011/0203/RM



Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 24-JUN-11

Ref: I/2011/0021/F

Proposals: New single storey farm dwelling

Decision: PG

Decision Date: 16-FEB-12

Ref: I/2012/0330/F

Proposals: Proposed change of house type from previously approved application I/2011/0021/F to provide single farm dwelling with attic conversion and a storey and a half detached garage

Decision: PG

Decision Date: 07-JAN-13

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Roads outline.docxDC Checklist 1.docFORM RS1 STANDARD.doc

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Site Layout or Block Plan Plan Ref: 02 Rev 1

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

Not Applicable

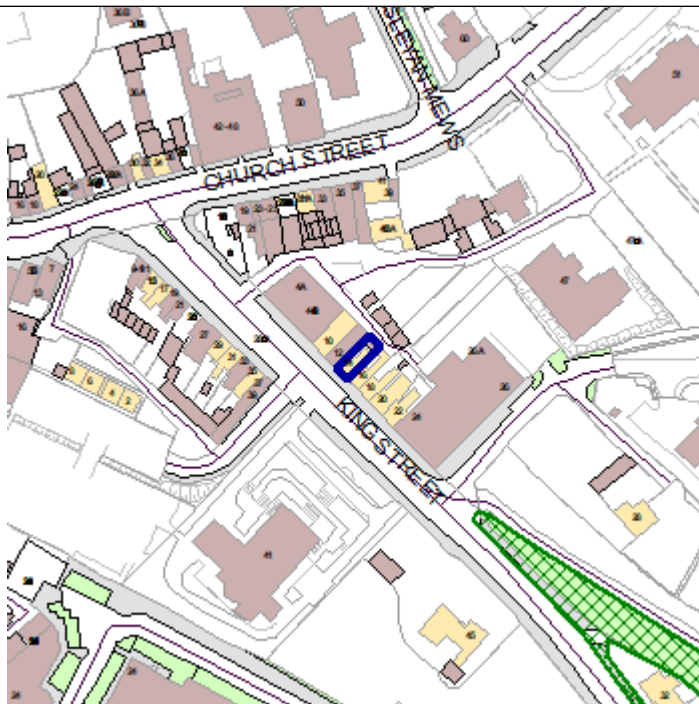


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2024/0097/F	<b>Target Date:</b> 13 May 2024
<b>Proposal:</b> Change of use from residential to office (retrospective)	<b>Location:</b> 14 King Street Magherafelt
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Les Ross Planning 14 King Street Magherafelt BT45 6AR	<b>Agent Name and Address:</b> Hayley Dallas 14 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b> <p>This full planning application for the proposed retrospective change of use from residential to office space at 14 King Street Magherafelt is brought before the Planning Committee with a recommendation for approval. No objections have been received from third parties, including notified neighbours.</p> <p>The proposal is contrary to Policy HOU 2 Protected Town Centre Housing Areas of the Magherafelt Area Plan 2015 - this is a mapped designation that seeks to resist the spread of commercial uses into areas which have a useful longer term residential life.</p> <p>It is noted there are no physical external changes proposed and there are no internal layout changes at the application site. Except for the proposed use, the building retains its domestic character and does not remove the future option of reverting back to a residential use. Consideration has also been afforded to the similar commercial uses within the town centre which utilise town centre housing for this purpose. On balance, it is recommended that this application is approved as a departure from the Area Plan designation.</p>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09.2024.0097.F.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Full Resp.docx

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The address of the application site is identified as no. 14 King Street Magherafelt, which

is located within the confines of the Magherafelt Town Centre boundary as defined in the Magherafelt Area Plan 2015. The is a two-storey terraced townhouse building which fronts the road and is sandwiched between nos. 12 and 16 King Street. Most of the townhouses along this street amount to domestic uses, though no. 12 King Street is an office for the St Vincent's De Paul Charity. The immediate surrounding area comprises a mix of residential, commercial and community uses. Parking provision is on-street.

### **Description of Proposal**

This is a full application for the change of use from residential to office (retrospective).

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

#### **Policy Consideration**

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

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

#### Magherafelt Area Plan 2015

The address of the application site is identified as no. 14 King Street Magherafelt, which is located within the confines of the Magherafelt Town Centre boundary as defined in the Magherafelt Area Plan 2015. Map no. 5a (Magherafelt Town Centre) of the MAP 2015 shows the site and the rest of this particular terrace zoned red for Protected Town Centre Housing Area (MT 45).

Designation MT 45 Protected Town Centre Housing Area, King Street

Policy for the control of development in Protected Town Centre Housing Areas is contained in Policy HOU 2 of the Plan.

#### Policy HOU 2 Protected Town Centre Housing Areas

Within designated Protected Town Centre Housing Areas planning permission will not be granted for redevelopment or change of use from housing.

The Department will resist the spread of commercial uses into areas which have a useful longer term residential life. They provide a valuable housing stock and are homes for established communities which contribute to the variety and vitality of life in the town centre.

It is therefore taken that the proposed change of use development is contrary to the above policy designations of the Magherafelt Area Plan 2015.

## Planning History

None

## Representations

No representations have been received to date.

## Mid Ulster District Council Draft Plan Strategy 2030

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

## SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS was introduced in September 2015 and is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council Area has been adopted. During this period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS supersedes the policy provisions within PPS 1-General Principles, PPS 5- Retailing and Town Centres and PPS 9. The policy provisions within PPS 3 have been retained under transitional arrangements. The SPPS aims to support and sustain vibrant town centres across Northern Ireland through the promotion of established town centres as the appropriate first choice location of retailing and other complementary functions. In addition, the SPPS outlines that all applications for retail development or main town centre type uses will be assessed in accordance with normal planning criteria including transportation and access arrangements, design and environmental and amenity impacts.

The proposal will not cause demonstrable harm to any interests of acknowledged importance. The proposal is for a change of use that will not impact on built heritage or sites of archaeological interest. There are no listed buildings within close proximity to the site. There are no external changes to the building. Environmental Health have been consulted and have raised no objection to the proposal by way of noise impact / odour concerns.

## A Planning Strategy for Rural Northern Ireland

Policy DES 2 Townscape of A Planning Strategy for Rural Northern Ireland requires development proposals in towns and villages to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of

design, scale and use of material. As previously stated the redevelopment of this existing building will not cause demonstrable harm to any interests of acknowledged importance. The development is considered appropriate and will make a positive contribution to the town's role as a local hub whilst respecting the existing built form.

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

No new access is being created in this proposal. Existing town centre on-street parking is in situ. The agent has indicated in the P1 form that there will be no increase in the number of visitors to and from the site. DfI Roads were consulted and provided no objection to the proposed development. I am content that the proposed does not offend any of the policy with PPS 3.

### Other Material Considerations

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

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

The site is located across the way from Our Lady of the Assumption RC church, which is a listed building. Given there are no external changes to the building at the site, there will be no demonstrable harm caused to the listed building. HED were consulted in this application and provided no objections to the proposal.

There are no issues pertaining to flooding at the site.

### Recommendation

It is noted there are no physical external changes proposed and there are no internal layout changes at the application site. Except for the proposed use, the building retains its domestic character and does not remove the future option of reverting back to a residential use. Consideration is also afforded to the current use of no. 12 King Street, which is that of an office for the St Vincents de Paul charity, which also falls within the Protected Town Centre Housing Area. Elsewhere within the town centre, including across the road from the site, there are a number of townhouses which are being used for commercial purposes.

On balance with all of the above, it is recommended that this application for the change of use from residential to office be granted planning permission despite its departure from the Area Plan designation for Protected Town Centre Housing.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Signature(s):** Benjamin Porter

**Date:** 19 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	29 January 2024
<b>Date First Advertised</b>	6 February 2024
<b>Date Last Advertised</b>	6 February 2024
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier Church of The Assumption 41 King Street Magherafelt Londonderry BT45 6AR The Owner / Occupier 12 King Street Magherafelt Londonderry BT45 6AR The Owner / Occupier 16 King Street Magherafelt Londonderry BT45 6AR	
<b>Date of Last Neighbour Notification</b>	31 January 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<p>Ref: LA09/2017/1623/LDE  Proposals: Change of use to office and meeting place  Decision: PG  Decision Date: 08-MAR-18</p> <p>Ref: H/1989/0540  Proposals: ALTS AND ADDS TO DWELLING  Decision: PG  Decision Date:</p> <p>Ref: LA09/2024/0097/F  Proposals: Change of use from residential to office (retrospective)  Decision:  Decision Date:</p> <p>Ref: H/1985/0300  Proposals: ALTERATIONS AND ADDITIONS TO DWELLING  Decision: PG  Decision Date:</p>	



Ref: H/1982/0094

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: H/2003/1514/A

Proposals: Erection of advertising sign for S.V.P

Decision: CG

Decision Date: 24-FEB-05

Ref: H/2003/1242/F

Proposals: Change of use from dwelling to shop and alterations.

Decision: PR

Decision Date: 12-JAN-06

Ref: H/2007/0655/F

Proposals: Conversion of existing 2 storey dwelling to 2 apartments.

Decision: PG

Decision Date: 18-DEC-07

Ref: LA09/2019/0165/F

Proposals: Proposed change of use from office and meeting place to retail space for a charity. (St Vincent De Paul).

Decision: PG

Decision Date: 03-APR-19

Ref: H/2005/0364/F

Proposals: Extension and alterations to existing property

Decision: PG

Decision Date: 20-OCT-05

### **Summary of Consultee Responses**

Historic Environment Division (HED)-

Environmental Health Mid Ulster Council-LA09.2024.0097.F.pdf

DFI Roads - Enniskillen Office-Full Resp.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Elevations and Floor Plans Plan Ref: 02

Existing Plans Plan Ref: 03

**Notification to Department (if relevant)**

Not Applicable

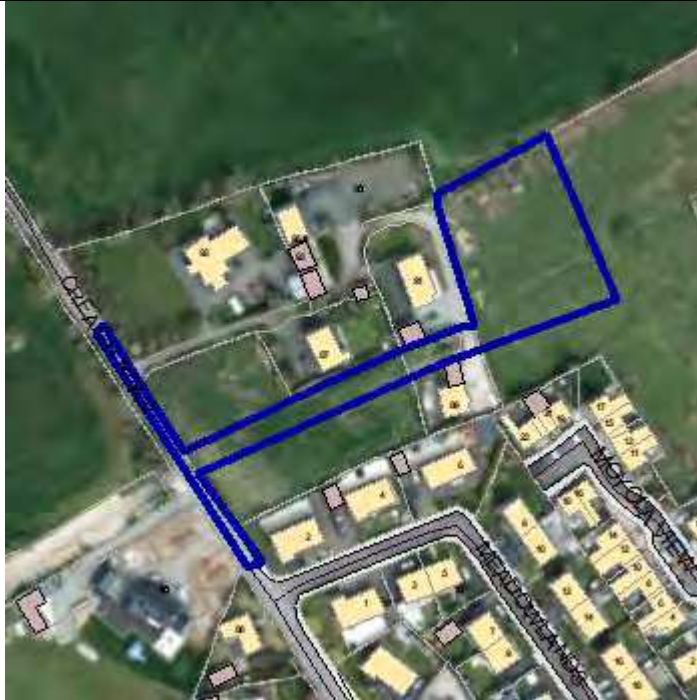


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 9 April 2024	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2024/0138/RM	<b>Target Date:</b> 21 May 2024
<b>Proposal:</b> Ciaran and Emer Devlin Reserved matters application for a dwelling and garage	<b>Location:</b> Land East of 91 Creagh Road Castledawson BT45 8EY
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Ciaran and Emer Devlin 20 Rectory Manor Randalstown BT41 3FN	<b>Agent Name and Address:</b> Ryan Dougan 31 Rainey Street Magherafelt BT45 5DA
<b>Executive Summary:</b>  The applicant is a Planning Officer for Mid Ulster District Council Planning Department, therefore the proposal is being presented to Members as per MUDC Scheme of Delegation on Planning Matters policy.	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

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

### Summary of Issues

No objections or representations received

### Characteristics of the Site and Area



The site is a 0.36ha parcel of land located along the Creagh Road. It is located within the rural countryside, outside any defined settlement limit as identified in the Magherafelt Area Plan 2015. The site is roughly square shaped and is located within the western corner of a larger agricultural field approximately 110m from the public road. A post and wire fence and sparse hedgerow defines the northern boundary of the site with a wooden fence defining the western boundary. The southern and eastern boundaries are undefined as they are cut out of the larger agricultural field.

Between the eastern plot of the site and the public road there are 5 dwellings (one currently under construction) with associated ancillary buildings, outhouses and sheds. The small settlement of Creagh lies to the south and west of the site (approx. 50m) with the site located on unzoned land in the countryside. Land in the area is relatively flat with land outside Creagh being defined mostly by detached single dwellings, farm holdings and agricultural land. There is also industrial development in the area including Creagh Concrete. The Moyola River is located approx. 500m west.

The site is smaller than that approved under outline planning permission LA09/2021/0116/O, which initially comprised two portions of land joined by a new laneway. The western portion of land at the public road has now been excluded from the site outlined in red.

### **Description of Proposal**

Reserved Matters application for a dwelling and garage

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

#### **Policy Consideration**

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

application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

### **Relevant Histories**

Adjacent to and to the west of the site:

Ref: H/2008/0592/F

Proposals: Proposed off-site replacement dwelling.

Decision: PG

Decision Date: 12-DEC-08

Ref: LA09/2021/0075/F

Proposals: Proposed change of house type from previously approved planning application LA09/2015/0173/F

Decision: PG

Decision Date: 08-JUN-21

Planning permission on the site:

Ref: LA09/2021/0116/O

Proposals: Outline planning permission for a dwelling & garage.

Decision: PG

Decision Date: 08-SEP-21

The principle of development has been established through the recent approval of LA09/2021/0116/O and this Reserved Matters proposal complies with all the conditions set down at outline stage including a 7.5m ridge height, siting, levels and landscaping provided.

### **Representations**

Fifteen (15) no. neighbouring properties were identified to be notified, 13 by the initial case officer assigned this application and a further 2 by myself. Press advertisement was carried out in line with the Council's statutory duty and no third party representations have been received to date.

### **Magherafelt Area Plan 2015**

The site is on land located in the countryside just outside and north of the small settlement of Creagh, with Magherafelt located approx. 5 miles to the west. The land is not zoned and therefore the policy provisions of SPPS and PPS21 apply.

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

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

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

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

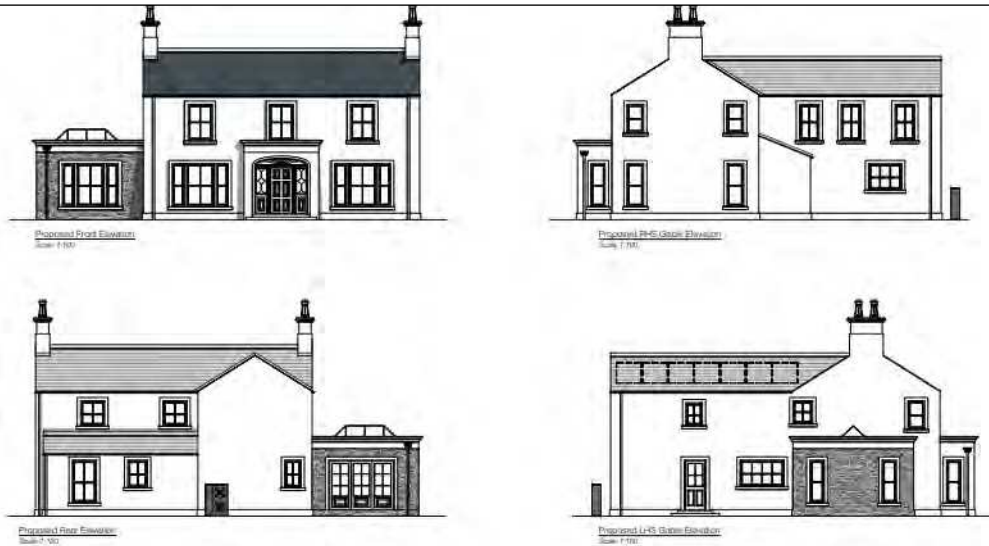
### **Planning Policy Statement 3 – Access, Movement and Parking**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Creagh road. DFI Roads have been consulted and advise that they have no objections subject to visibility splays of 2.4 x 45 metres and a 45-metre forward sight distance being provided in accordance with Drawing No.02 bearing the date Feb 2024 prior to the commencement of any other development hereby permitted.

### **Planning Policy Statement 21 - Sustainable Development in the Countryside**

As the principle of development has already been established, the matters reserved under the OPP must now be considered.

CTY 13 of PPS21 – Integration and Design of Buildings states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.



The proposed dwelling is 7.5m in height, 12.5m in length (17.4m including the single storey side projection) and has a gable depth of 9m. The finishes of smooth render and natural stone to the side projection are acceptable, and the windows mostly have a vertical emphasis with a strong relationship of solid to void. There is an eclectic mix of house designs in the immediate area and I am satisfied this house type will not appear incongruous in the landscape. I am content there are no overshadowing or overlooking concerns given the orientation of the dwelling on site, as well as the separation distance from the dwellings to the south and the orientation of the dwellings to the west and north-west of the site. Additionally, new planting is proposed to all boundaries which will, when mature, provide natural screening. Levels have been provided which shows the dwelling at a finished floor level of 19.50 with the existing ground level to the south at a level of 19.09. I am satisfied this dwelling can be visually integrated into the surrounding countryside.

A landscaping plan has been provided which shows the existing boundaries to be retained as well as additional planting around the dwelling itself. There are no long-term critical views of the site given the existing development between the site and the public road. The proposal therefore meets policy criteria contained within policy CTY13 of PPS21.

CTY 14 of PPS21 – Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling will not be unduly prominent in the landscape nor does it result in build up. It respects the settlement pattern of the area and it does not create or add to a ribbon of development. The ancillary works will not damage rural character. It was assessed at outline stage that a dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

### **Other Considerations**

A Habitats Regulations Assessment (HRA) was conducted to determine any potential impact this proposal may have on Special Protection Areas, Special Areas of Conservation and Ramsar sites. This was assessed in accordance with the requirements



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

The Strategic Flood Map (NI) indicates that the site is not affected by pluvial or surface water flooding. There is a flood plain on the opposite side of Creagh Road to the Moyola River but the site is not impacted by this.

I have no ecological or residential amenity concerns. As the development proposed is in accordance with the conditions set down at OPP stage and the design is considered acceptable, I recommend approval.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

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

#### **Condition 2**

The vehicular access including visibility splays 2.4 x 45 metres and a 45-metre forward sight distance, shall be provided in accordance with Drawing No. 02 date received 05 Feb 2024 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

#### **Condition 3**

All hard and soft landscape works as detailed on drawing No. 02 date received 05 FEB 2023 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with

5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s):** Deirdre Laverty

**Date:** 11 March 2024

<b>ANNEX</b>	
<b>Date Valid</b>	6 February 2024
<b>Date First Advertised</b>	20 February 2024
<b>Date Last Advertised</b>	20 February 2024
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  90 Creagh Road Castledawson BT45 8EY  The Owner / Occupier  88 Creagh Road Castledawson BT45 8EY  The Owner / Occupier  95 Creagh Road Castledawson Londonderry BT45 8EY  The Owner / Occupier  95A Creagh Road Castledawson Londonderry BT45 8EY  The Owner / Occupier  93 Creagh Road Castledawson Londonderry BT45 8EY  The Owner / Occupier  87 Creagh Road Castledawson Londonderry BT45 8EY  The Owner / Occupier  17 Moyola View Toomebridge Toome Londonderry BT41 3SN  The Owner / Occupier  19 Moyola View Toomebridge Toome Londonderry BT41 3SN  The Owner / Occupier  21 Moyola View Toomebridge Toome Londonderry BT41 3SN  The Owner / Occupier  23 Moyola View Toomebridge Toome Londonderry BT41 3SN  The Owner / Occupier  89 Creagh Road Castledawson Londonderry BT45 8EY  The Owner / Occupier  6 Meadowlands Castledawson Londonderry BT45 8EW  The Owner / Occupier  4 Meadowlands Castledawson Londonderry BT45 8EW  The Owner / Occupier  2 Meadowlands Castledawson Londonderry BT45 8EW  The Owner / Occupier  91 Creagh Road Castledawson Londonderry BT45 8EY</p>	
<b>Date of Last Neighbour Notification</b>	14 February 2024
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## **Planning History**

Ref: H/1992/6087

Proposals: TRAVELLERS SITE MAGHERAFELT DISTRICT

Decision: QL

Decision Date:

Ref: LA09/2016/1210/O

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 22-DEC-16

Ref: LA09/2017/0857/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 08-AUG-17

Ref: H/2007/0591/Q

Proposals: Primary School.

Decision: 211

Decision Date:

Ref: H/2011/0585/F

Proposals: Removal of condition no. 2 from approval ref H/2009/0147/F. Retention of existing dwelling and conversion to garage.

Decision: PG

Decision Date: 12-MAR-12

Ref: H/2009/0147/F

Proposals: Proposed replacement dwelling & garage

Decision: PG

Decision Date: 15-OCT-09

Ref: LA09/2021/0116/O

Proposals: Outline planning permission for a dwelling & garage.

Decision: PG

Decision Date: 08-SEP-21

Ref: LA09/2024/0138/RM

Proposals: Reserved matters application for a dwelling and garage

Decision:

Decision Date:

Ref: LA09/2021/0075/F

Proposals: Proposed change of house type from previously approved planning application LA09/2015/0173/F

Decision: PG

Decision Date: 08-JUN-21

Ref: H/2011/0152/F

Proposals: Proposed change of house type to that previously approved under planning application H/2008/0039/F and proposed garage (amended description to include garage).

Decision: PG

Decision Date: 16-AUG-11

Ref: H/2008/0592/F

Proposals: Proposed off-site replacement dwelling.

Decision: PG

Decision Date: 12-DEC-08

Ref: H/1993/0362

Proposals: CHANGE OF HOUSE TYPES

Decision: PG

Decision Date:

Ref: H/2008/0039/F

Proposals: Proposed off-site replacement dwelling

Decision: PG

Decision Date: 12-SEP-08

Ref: LA09/2015/0173/F

Proposals: Proposed change of house type from previously approved planning application ref: H/2008/0592/F

Decision: PG

Decision Date: 18-AUG-15

Ref: H/1992/0663

Proposals: HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/1973/0114

Proposals: SUBSIDY BUNGALOW

Decision: PG

Decision Date:

Ref: H/1992/0672

Proposals: SITE OF 6 UNIT HOUSING DEVELOPMENT FOR TRAVELLERS AND DECANT SITE

Decision: WITHDR

Decision Date:

Ref: H/1992/6120

Proposals: HOUSING DEVELOPMENT CREAGH RD/BLACKPARK RD TOOMEBRIDGE

Decision: QL

Decision Date:

Ref: H/1976/0367

Proposals: SITE OF HOUSING DEVELOPMENT

Decision: PG

Decision Date:

Ref: H/2000/0185/F

Proposals: Alterations to Dwelling

Decision: PG

Decision Date: 14-APR-00

Ref: H/1990/6039

Proposals: HOUSING SITE CREAGH ROAD TOOMEBRIDGE

Decision: PRENC

Decision Date: 17-MAY-90

Ref: H/1990/6055

Proposals: TRAVELLERS SITE JUNCTION OF BLACKPARK ROAD AND CREAGH ROAD KILLHEAD

Decision: PRENC

Decision Date: 30-JUL-90

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-RM Response.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 03

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

Not Applicable

