



09 April 2024

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Dungannon at Mid Ulster District Council, Council Offices, Circular Road, Dungannon, BT71 6DT on Tuesday, 09 April 2024 at 17:00 to transact the business noted below.

Yours faithfully

Adrian McCreesh
Chief Executive

AGENDA

OPEN BUSINESS

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

Matters for Decision

Development Management Decisions

5. Receive Planning Applications 7 - 366

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2020/0099/F	2 storey dwelling and garage with attached car port at 10m N of No 1 The Brambles, Station Road, Magherafelt for Mr Mark Quinn	REFUSE

5.2.	LA09/2020/1319/F	Mixed-use development comprising 80 units (56 dwellings & 24 apartments) & 8 industrial units (light industrial & storage) at immediately N of 31 Ballygawley Road, Dungannon, bounded by Cloneen & Ballysaggart Park to the S & W for Orchard County Contracts	APPROVE
5.3.	LA09/2021/1293/F	Extension to bar and restaurant including extension of off sales area within existing shop and temporary marquee at 221 Orritor Road, Cookstown for Mrs Iris Thom	APPROVE
5.4.	LA09/2022/1135/F	Development of business park 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) at 14 Sandholes Road, Cookstown, for Sperrin Trading Services Ltd	APPROVE
5.5.	LA09/2022/1459/F	Renewal of Planning approval LA09/2017/0168/F - New Robotic Dairy Unit at 110 M SW of 10 Ballynagarve Road, Magherafelt for Mr William Watterson and Sons	REFUSE
5.6.	LA09/2023/0421/F	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 at 8 Killyneill Road, Dungannon, for Mr and Mrs John Quinn	APPROVE
5.7.	LA09/2023/0724/F	Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary site works at lands approx 80m to the N and E of 122a Moneymore Road and approx 40m to the W and S of Magherafelt Substation, Magherafelt, for Magherafelt BES Ltd.	APPROVE

5.8.	LA09/2023/0782/F	Residential development comprising of 12 dwellings (mix of detached dwellings and chalet bungalows), private amenity space, landscaping, new site access, and all associated ancillary works. at lands approx 16m to SW of 21 Moneysharvan Road, Swatragh, for Millriver Investments	REFUSE
5.9.	LA09/2023/0872/O	Dwelling and domestic garage in a gap site at land between 19 and 21 Killyneill Road, Dungannon for Caran Ltd	APPROVE
5.10.	LA09/2023/0922/F	Retention of cattle shed and hard standing yard area at lands approx 100m SW of 17 Annaghnaeboe Road, Coalisland for Edward Dorman	REFUSE
5.11.	LA09/2023/1034/O	Off-site replacement dwelling, garage and associated site works at lands adjacent to and NE of 43 Annaghone Rd, Stewartstown, Dungannon for Mr Matthew Leonard	APPROVE
5.12.	LA09/2023/1075/F	Conversion and reuse of a redundant farm building to provide a new single living unit immediately to the rear of 25 Ballynahaye Road, Cabragh, Dungannon for Brian Mulgrew	APPROVE
5.13.	LA09/2023/1119/F	Replacement dwelling at 40m SW of 38 Lisnamuck Road, Tobermore for Mr Andrew Hopper	REFUSE
5.14.	LA09/2023/1215/O	Site for two dwellings and detached garages at lands between 21 and 23 Halfgayne Road, Maghera for Mr Francis Bradley	REFUSE
5.15.	LA09/2023/1279/F	Extension to curtilage to provide garden space and domestic storage shed at 96 Mullan Road, Coagh for Mr Terence Maynes	REFUSE
5.16.	LA09/2023/1300/F	Alterations and 2 storey rear extension to existing dwelling at 28 Moneymore Road , Cookstown, for Mr Michael Young	APPROVE
5.17.	LA09/2023/1311/F	Dwelling and domestic garage (change of house type and garage from I/2006/0008/RM	REFUSE

		including relocation of garage within extended curtilage) at site opposite 64 Feegarron Road, Cookstown for Mr & Mrs Alan & Claire Boyle	
5.18.	LA09/2023/1374/F	Farm shed for feeding & shelter area, storage area & underground slurry tanks at 76m SE of 200 Annagher Road , Dungannon for Mr James McGrath	REFUSE
5.19.	LA09/2023/1381/O	Dwelling and garage (infill) at 35m SE of 37 Ballynacross Road, Knockloghrim for T Elliott Esq	REFUSE
5.20.	LA09/2023/1385/O	Dwelling and garage (infill) at 85m SE of 37 Ballynacross Road, Knockloghrim for T Elliott Esq	REFUSE
5.21.	LA09/2023/1402/LDP	Completion of detached dwelling (site 31) as per H/2005/0601/F at lands 45m NE of 34 Moneyneany Road, Moneyneany, Draperstown for Mr Brendan Doyle	REFUSE
5.22.	LA09/2024/0035/O	Dwelling & garage at 300m N of 74 Moneyhaw Road, Drummullan, Moneymore for Mr Fergus Bell	APPROVE
5.23.	LA09/2024/0097/F	Change of use from residential to office (retrospective) at 14 King Street Magherafelt for Les Ross Planning	APPROVE
5.24.	LA09/2024/0138/RM	Dwelling and garage at land E of 91 Creagh Road, Castledawson, for Ciaran and Emer Devlin	APPROVE

6. Receive Deferred Applications

367 - 456

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2021/0268/F	Replacement of existing turbine (approved I/2014/0394/F) with an EWT DW54 250KW turbine comprising of a 40m hub height and blade span of 27m (overall tip height of 67m) (Revised Noise and Visual Information) at approx 210 SE of 40 Gortagammon Road, Cookstown for Arena Capital Partners	APPROVE
6.2.	LA09/2021/1396/O	Site for housing development. at 34 Main Street, Tullyhogue,	APPROVE

		Cookstown. for Calvert Development Ltd	
6.3.	LA09/2022/1359/O	Site for a dwelling and domestic garage at approx 105m NW of 25 Brackagh Road, Desertmartin for Mr Seamus Diamond	APPROVE
6.4.	LA09/2022/1736/O	Dwelling and garage at approx 210m SE of 59 Glengomna Road, Draperstown, for Sean Donnelly	APPROVE
6.5.	LA09/2023/0005/F	Dwelling and detached domestic garage at approx 55m NE of 72 Finulagh Road, Dungannon, for Michael Doran	APPROVE
6.6.	LA09/2023/1070/O	Dwelling and garage adjacent to 59 and 24m SE of 55 Killary Lane, Killary, Stewartstown, Dungannon for Mr Brian Corr.	APPROVED

7. Receive Report on Tirquin Killyclogher Afforestation 457 - 466
8. Receive Report on Afforestation Drumconready Draperstown 467 - 472

Matters for Information

9. Minutes of Planning Committee held on 5 March 2024 473 - 504

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

Matters for Decision

10. Receive Report on BT Notification
11. Receive Report on Local Development Plan
12. Receive Enforcement Report

Matters for Information

13. Confidential Minutes of Planning Committee held on 5 March 2024
14. Enforcement Cases Opened
15. Enforcement Cases Closed



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 April 2024	Item Number: 5.1
Application ID: LA09/2020/0099/F	Target Date: 19 March 2020
Proposal: Proposed 2 storey dwelling and garage with attached car port	Location: 10M North Of No 1 The Brambles Station Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	Agent Name and Address: Cmi Planners Ltd 38B Airfield Road Toomebridge Magherafelt BT41 3SG
Executive Summary: <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:

Consultation Type	Consultee	Response
	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

ANNEX	
Date Valid	23 January 2020
Date First Advertised	11 February 2020
Date Last Advertised	11 February 2020
Details of Neighbour Notification (all addresses)	
<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>	
Date of Last Neighbour Notification	31 January 2020
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.2
Application ID: LA09/2020/1319/F	Target Date: 20 May 2021
Proposal: Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments) & 8 industrial units (light industrial & storage)	Location: Immediately North Of 31 Ballygawley Road Dungannon Bounded By Cloneen & Ballysaggart Park To The South & West
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Orchard County Contracts 17 Mullanary Road Dungannon BT71 7LS	Agent Name and Address: O'Callaghan Planning 20 Castle Street Newry BT34 2BY
Executive Summary:	

Case Officer Report**Site Location Plan**

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Consultations:

Consultation Type	Consultee	Response
	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
Representations:		
Letters of Support	0	
Letters of Objection	0	
Letters Non Committal	0	
Number of Support Petitions and		

signatures	
Number of Petitions of Objection and signatures	
Summary of Issues	
Characteristics of the Site and Area	
<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>	
Description of Proposal	
<p>Erection of mixed-use development comprising 80 units (56 dwellings & 24 apartments) 45 Units will be for social housing- 56% of the housing & 8 industrial units (light industrial & storage)</p>	
Planning Assessment of Policy and Other Material Considerations	
Policy Consideration	

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. 200m². 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	
Date Valid	22 October 2020
Date First Advertised	18 December 2023
Date Last Advertised	3 November 2020
Details of Neighbour Notification (all addresses)	
<p>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</p>	

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

Date of Last Neighbour Notification	7 December 2023
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Date of EIA Determination	19 November 2020
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ES Requested	<events screen>
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Planning History

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
Elevations and Floor Plans
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	
Committee Meeting Date: 9 April 2024	Item Number: 5.3
Application ID: LA09/2021/1293/F	Target Date: 29 October 2021
Proposal: Proposed extension to bar and restaurant including extension of off sales area within existing shop and temporary marquee	Location: 221 Orritor Road, Cookstown
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mrs Iris Thom 221 Orritor Road Orritor Cookstown BT80 9NB	Agent Name and Address: Henry Marshall Brown 10 Union Street Cookstown BT80 8NN
Executive Summary: <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

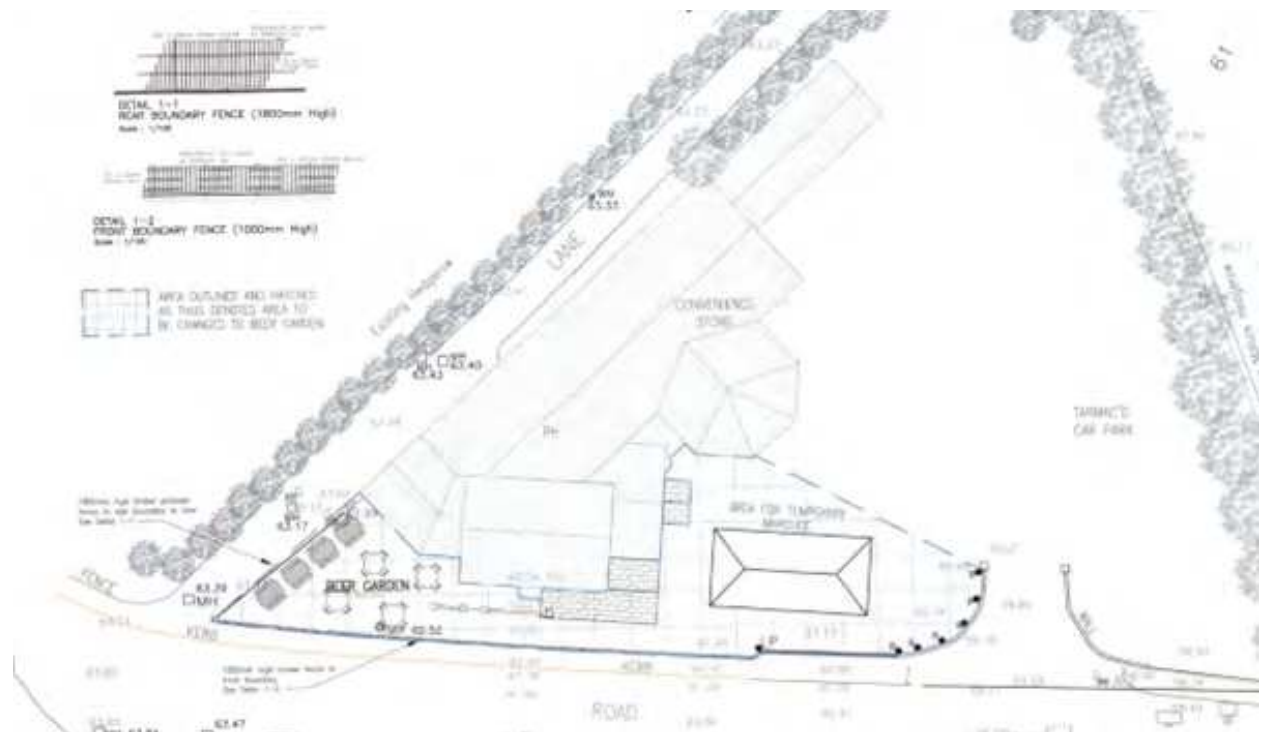


Figure 1 – Original scheme: the change of use of existing ancillary space to beer garden area and extension of off sales area within shop

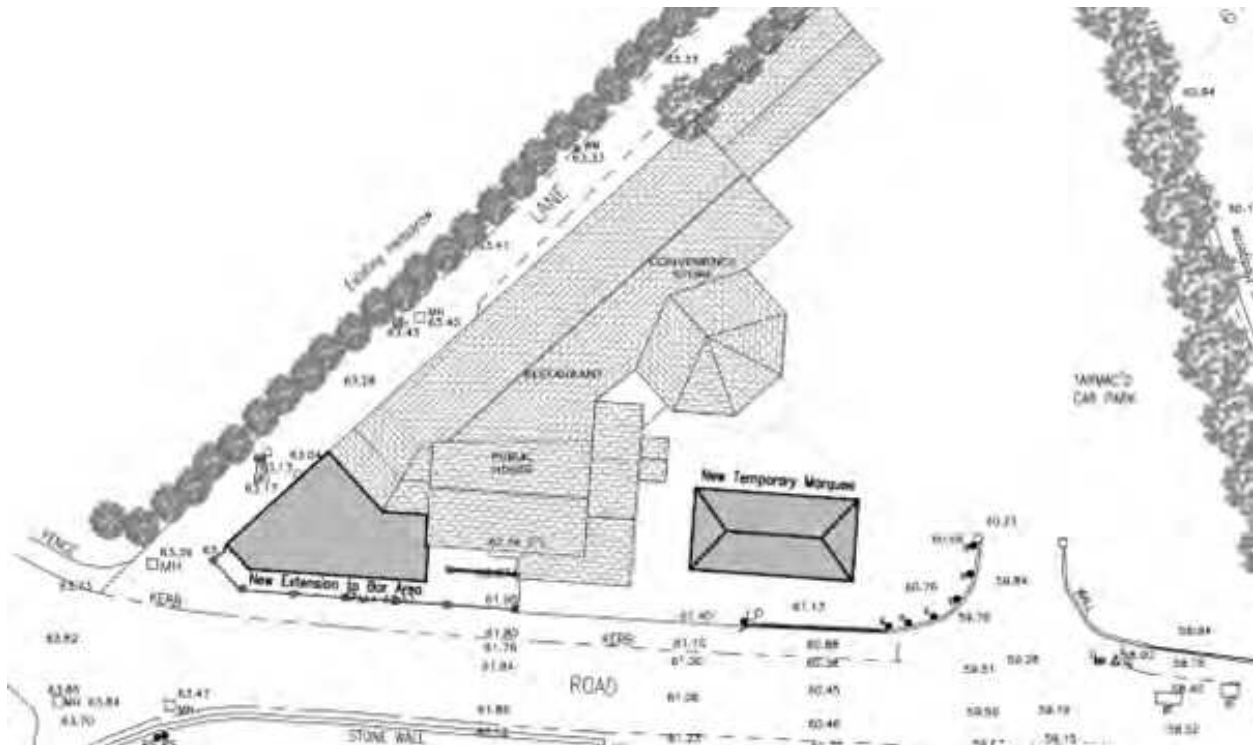


Figure 2 – Current scheme (amended): proposed extension to bar and restaurant including extension of off sales area within existing shop and temporary marquee

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 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.

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

ANNEX	
Date Valid	3 September 2021
Date First Advertised	4 July 2023
Date Last Advertised	14 September 2021
Details of Neighbour Notification (all addresses) 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	
Date of Last Neighbour Notification	14 March 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
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
Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR
Environmental Health Mid Ulster Council-LA09-21-1293 F 221 Orritor Road Nov 2022.doc
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

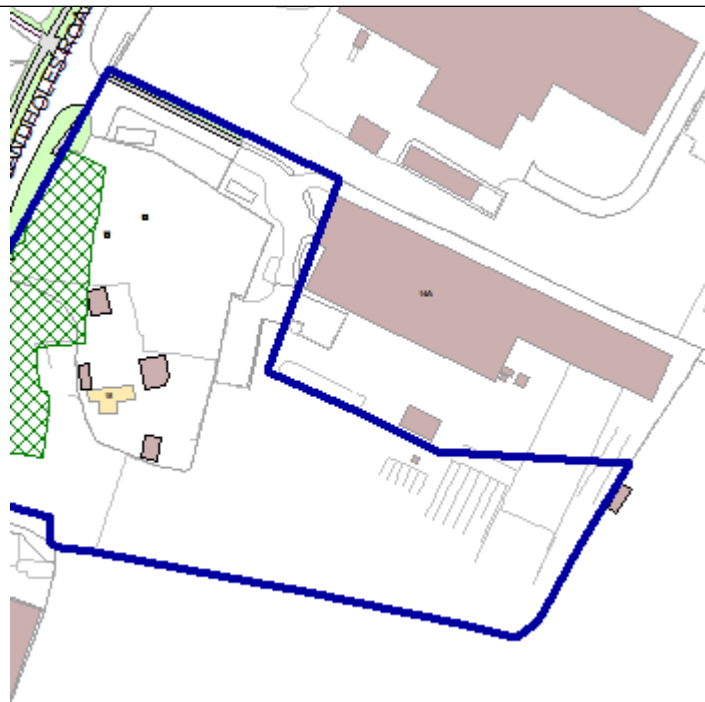


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 April 2024	Item Number: 5.4
Application ID: LA09/2022/1135/F	Target Date: 2 February 2023
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 (Amended description)	Location: 14 Sandholes Road Cookstown BT80 9AR
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Sperrin Trading Services Ltd 14 Sandholes Road Cookstown BT80 9AR	Agent Name and Address: Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
Executive Summary:	

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
Representations:		
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		
Summary of Issues		
Characteristics of the Site and Area		
<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

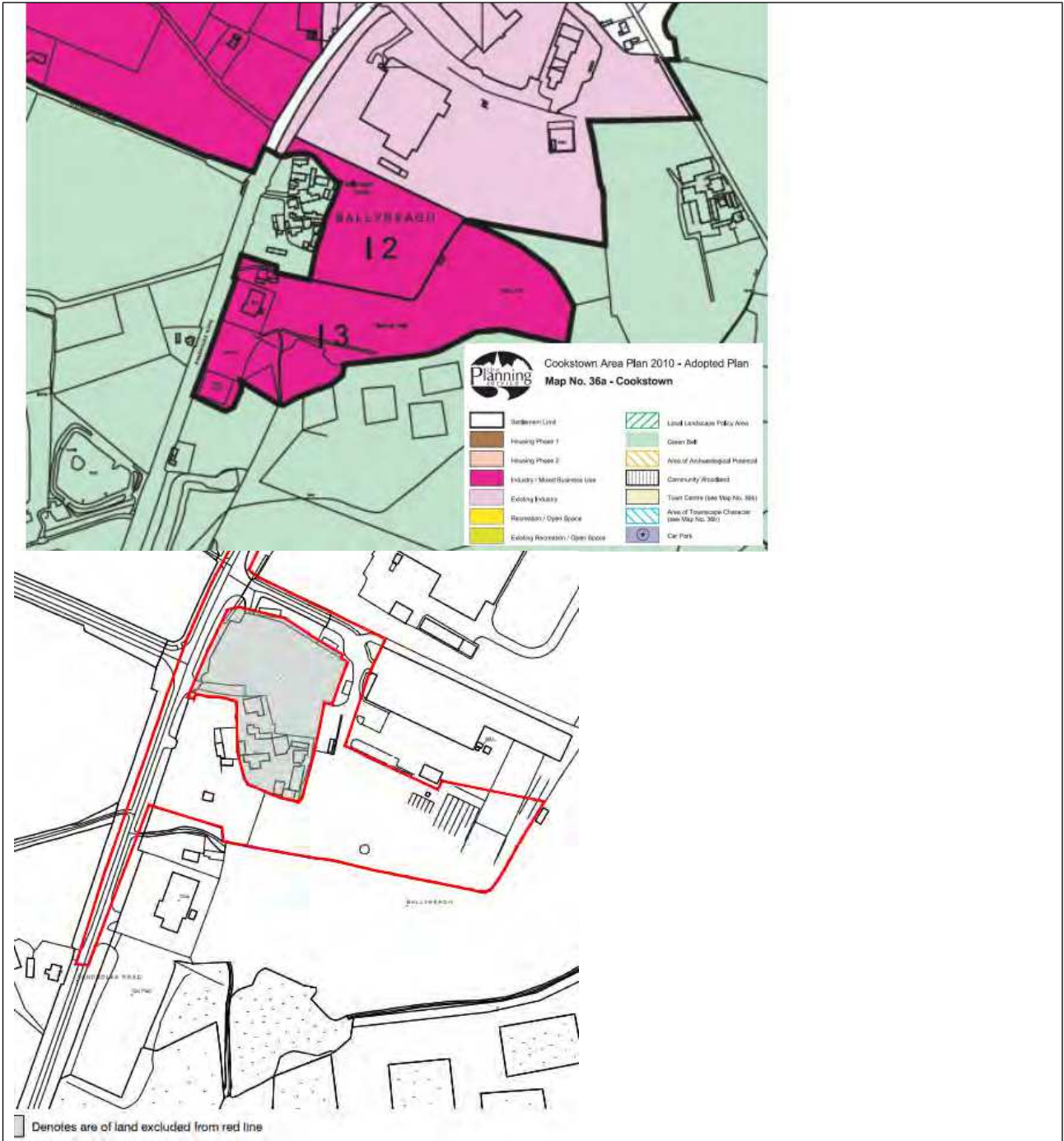
Policy Consideration

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

ANNEX	
Date Valid	7 July 2022
Date First Advertised	2 May 2023
Date Last Advertised	19 July 2022
Details of Neighbour Notification (all addresses)	
<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>	
Date of Last Neighbour Notification	26 April 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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 banded 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	
Committee Meeting Date: 9 April 2024	Item Number: 5.5
Application ID: LA09/2022/1459/F	Target Date: 18 January 2023
Proposal: Renewal of Planning approval LA09/2017/0168/F - Proposed New Robotic Dairy Unit	Location: 110 M SW Of 10 Ballynagarve Road Magherafelt
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr William Watterson And Sons 134 Ballyronan Road Magherafelt BT45 6HR	Agent Name and Address: CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary: 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>Summary of Issues</p> <p>Insufficient information to determine if application complies with NH1 of PPS 2</p>	
<p>Characteristics of the Site and Area</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>Description of Proposal</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>Planning Assessment of Policy and Other Material Considerations</p> <p><u>Policy Consideration</u></p> <p>The following polices are relevant to this application</p> <ul style="list-style-type: none"> • SPPS • Cookstown Area Plan 2010 • PPS 21 – Sustainable Development in the Countryside • PPS 2 – Natural Heritage <p><u>SPPS</u></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 5th October 2017 for a “proposed new robotic dairy unit” with a five year time limit condition. This application was validated on 5th 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

ANNEX	
Date Valid	5 October 2022
Date First Advertised	18 October 2022
Date Last Advertised	18 October 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 10 Ballynagarve Road Magherafelt Londonderry BT45 6HY The Owner / Occupier 14 Ballynagarve Road Ballyronan More Magherafelt Londonderry BT45 6HY	
Date of Last Neighbour Notification	16 November 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.6
Application ID: LA09/2023/0421/F	Target Date: 20 July 2023
Proposal: 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	Location: 8 Killyneill Road Dungannon BT71 6LL
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr and Mrs John Quinn 211 Coalisland Rd Dungannon BT71 4DP	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary:	

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

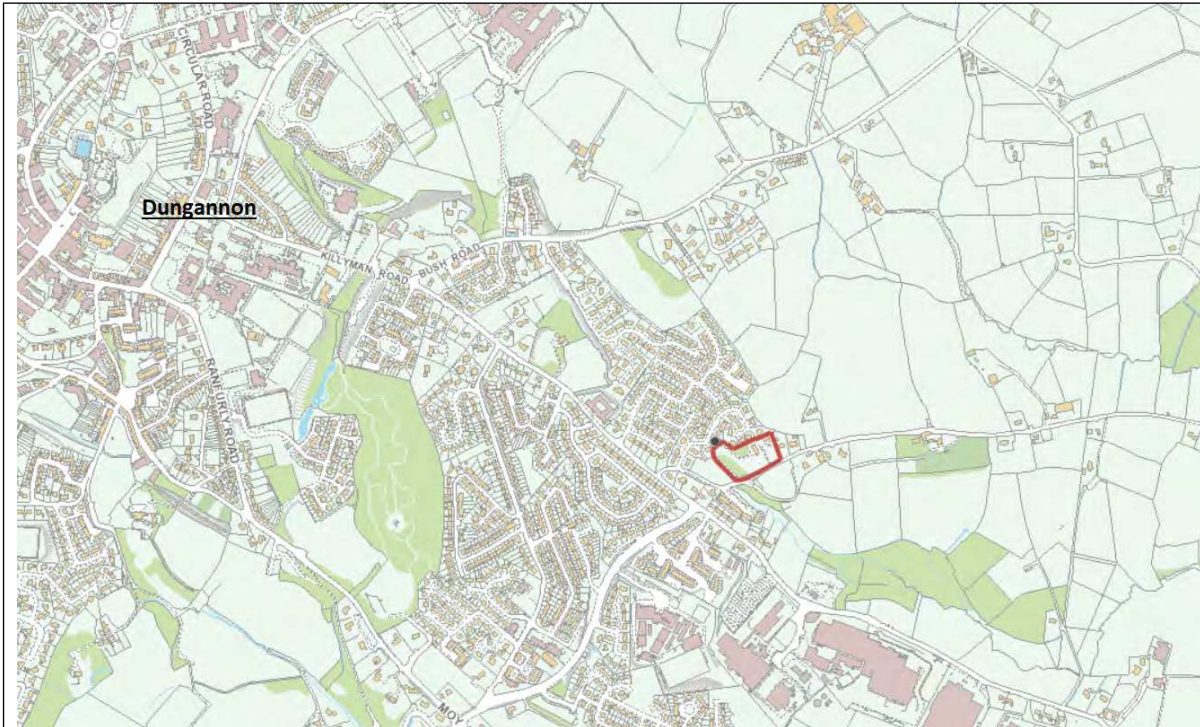
Representations:

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.



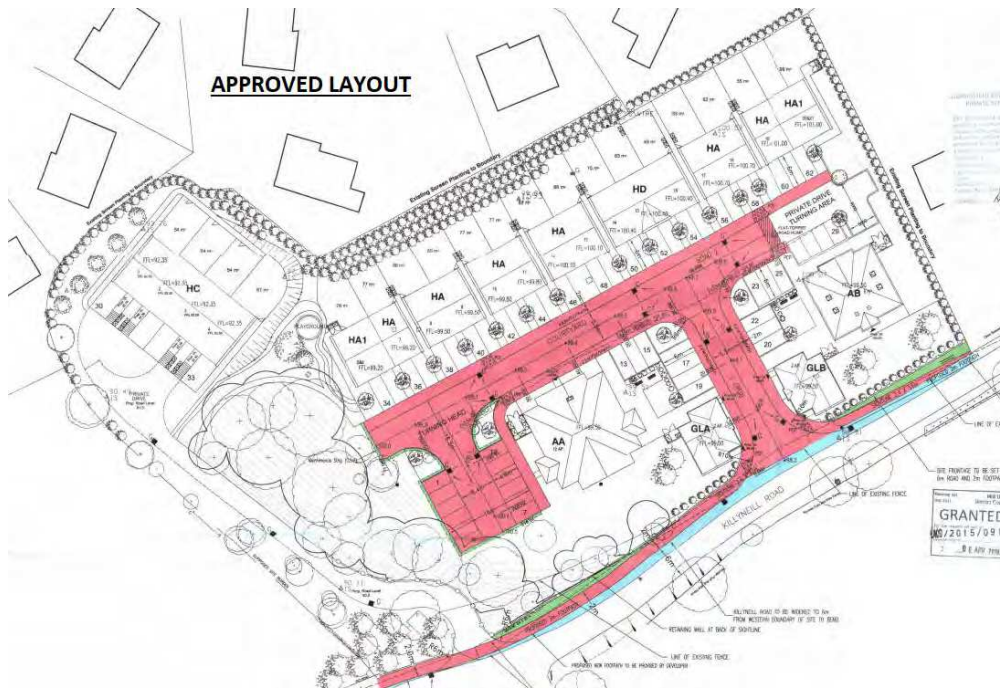
Description of Proposal

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)



(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 or landscape features designated in the immediate vicinity.

(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 proposal as submitted has made adequate provision for public and private open space as part of the overall development. Appropriate planting has been provided to soften the visual impact of the development and assist its integration with the surrounding area.

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

it is not deemed necessary by case officer that a scheme for 24no dwellings should be required to provide local neighbourhood facilities such as schools, surgeries local shops etc..

(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;

A footpath has been provided both internally and along site frontage to allow for the safe movement of cyclists and pedestrians, traffic calming measures are not considered necessary given the short distance /size of the site.

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

DFI Roads Service have been consulted for opinion and are content subject to conditions. The layout provides 2 spaces per dwelling house.

(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.

Condition 10

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

ANNEX	
Date Valid	6 April 2023
Date First Advertised	17 April 2023
Date Last Advertised	17 April 2023
Details of Neighbour Notification (all addresses)	
<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>	
Date of Last Neighbour Notification	13 April 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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 & 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	
Committee Meeting Date: 9 April 2024	Item Number: 5.7
Application ID: LA09/2023/0724/F	Target Date: 24 October 2023
Proposal: Proposed Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary site works	Location: Lands approximately 80M to The North and East of No122a Moneymore Road and approximately 40M to The West and South of Magherafelt Substation, Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Magherafelt BES Ltd. Unit 1 Wallace Studios Lisburn BT27 4AE	Agent Name and Address: Clyde Shanks 2nd Floor 7 Exchange Place Belfast BT1 2NA
Executive Summary: <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)	
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

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.

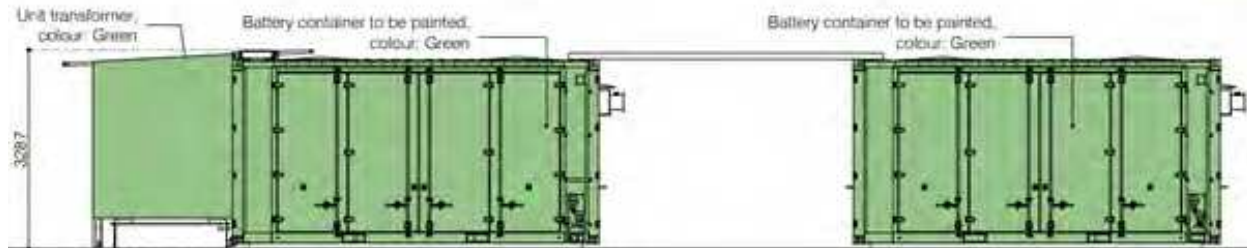


Description of Proposal

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.

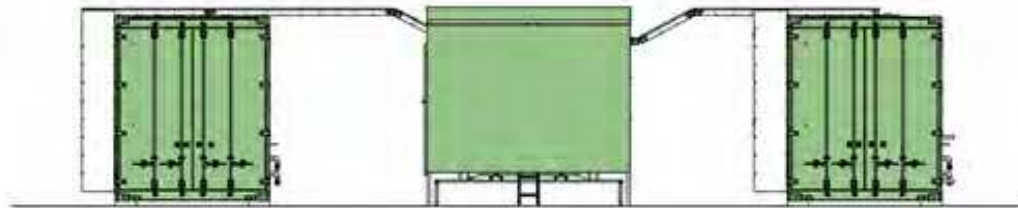
The proposal includes the following:

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



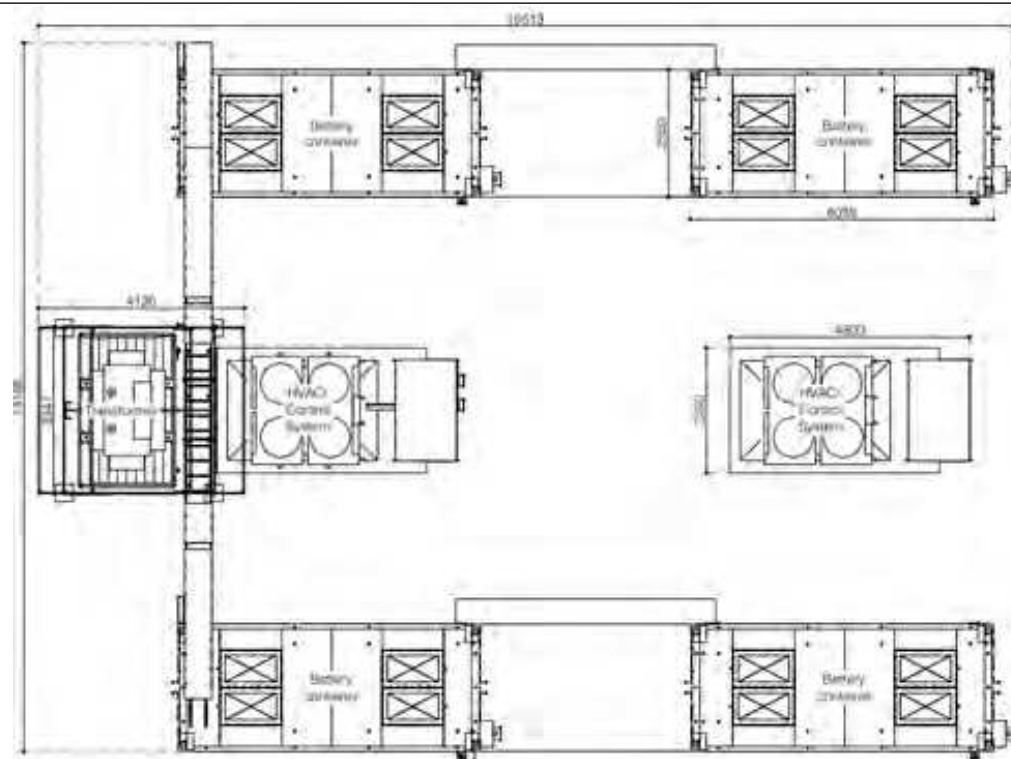
Proposed Front Elevation

Scale 1:100



Proposed Side Elevation

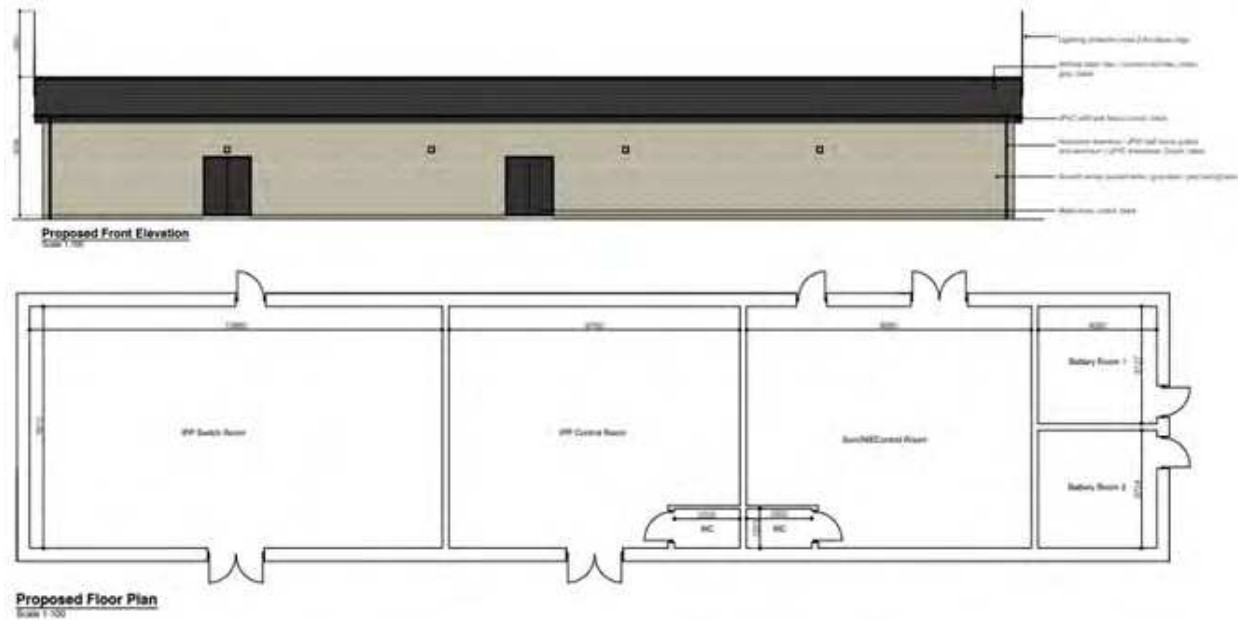
Scale 1:100



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 Ballymoghna 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.



As well as the relevant drawings necessary for this planning application, the agent has also submitted a number of additional documents for the proposal to be assessed. These include:

- Transport Assessment
- Preliminary Risk Assessment
- Preliminary Ecological Appraisal
- Noise Impact Assessment
- Landscape and Visual Impact Assessment
- Flood Risk and Drainage Assessment
- Fire Risk Assessment
- Construction Environmental Management Plan
- Archaeological & Cultural heritage
- Design and Access Statement
- Emergency Response Plan.
- Hazardous Substances Assessment

Relevant Planning History

LA09/2023/0201/PAN- Proposed Battery Energy Storage System (BESS) facility including electrical substation building, CCTV/lighting columns, security fencing, new access and ancillary site works. The PAN was accepted, a public community consultation report was submitted as part of the full application and the legislative 12-week period from the submission of the PAN and the submission of the full application passed and the application was deemed valid.

LA09/2023/0194/DTEIA- Proposed Battery Energy Storage System (BESS) facility. EIA Not Required.

Planning Assessment of Policy and Other Material Considerations

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.

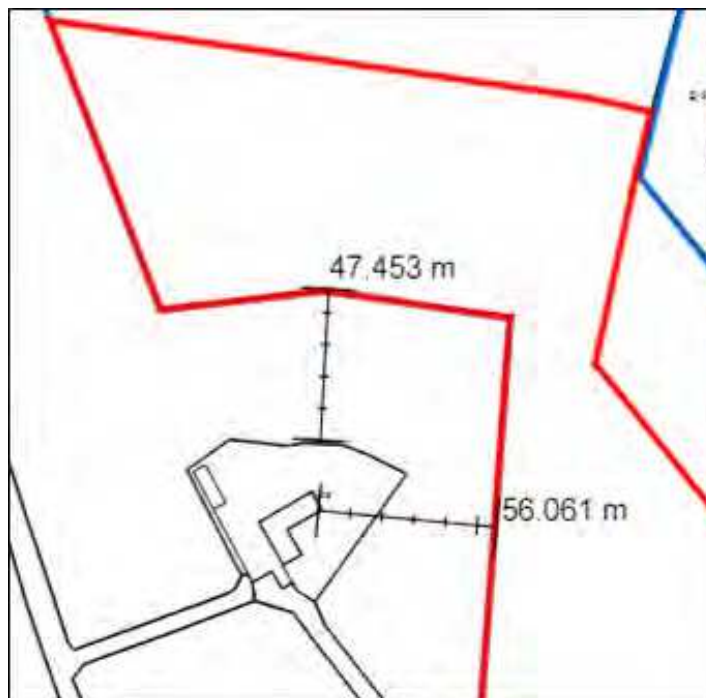
With regards to any potential ecological impacts the agent submitted a Preliminary Ecological Appraisal (PEA) as well as other relevant reports. NIEA were consulted on the proposal and the relevant reports submitted. Water Management Unit considered the impacts of the proposal on the surface water environment 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

ANNEX	
Date Valid	11 July 2023
Date First Advertised	25 July 2023
Date Last Advertised	25 July 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 37 Ballymoghnan Road Magherafelt Londonderry BT45 6HN The Owner / Occupier 122A Moneymore Road Magherafelt Londonderry BT45 6HJ The Owner / Occupier RNN - 33E Ballymoghnan Road Magherafelt Londonderry BT45 6HN	
Date of Last Neighbour Notification	9 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
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	
Committee Meeting Date: 9 April 2024	Item Number: 5.8
Application ID: LA09/2023/0782/F	Target Date: 6 November 2023
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.	Location: Lands Approx 16M to SW of No. 21 Moneysharvan Road, Swatragh, Maghera
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: N/A N/A 6 Dunglady Road Maghera BT46 5SU	Agent Name and Address: Miss Robyn Nicholl 20 May Street Belfast BT1 4NL
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	NI Water - Multiple Units West	LA09-2023-0782-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.doc Roads 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 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 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 80m² to 434m² for all dwellings, with an average of 177m².

- (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 13th 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 patten 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

ANNEX	
Date Valid	24 July 2023
Date First Advertised	8 August 2023
Date Last Advertised	8 August 2023
Details of Neighbour Notification (all addresses)	
<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>	
Date of Last Neighbour Notification	2 August 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.9
Application ID: LA09/2023/0872/O	Target Date: 30 November 2023
Proposal: Proposed erection of dwelling and domestic garage in a gap site under CTY8 of PPS21	Location: Land between 19 and 21 Killyneill Road Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Caran Ltd 222 Scallen Road Trillick	Agent Name and Address: Bernard J Donnelly 30 Lismore Road Ballygawley BT70 2ND
Executive Summary: 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	
Summary of Issues	
Characteristics of the Site and Area	
<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>	
Description of Proposal	
<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>	
Planning Assessment of Policy and Other Material Considerations	
<u>Policy Consideration</u>	
<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>	
Representations	
<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 27th September 2023 and 23rd 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 4th 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 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination,

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

Dungannon and South Tyrone Area Plan 2010

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other zonings or designations 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 an used 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 31st 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 24th 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 19th 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

ANNEX	
Date Valid	17 August 2023
Date First Advertised	28 August 2023
Date Last Advertised	28 August 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 19A Killneill Cottage Killyneill Road Dungannon Tyrone BT71 6LL The Owner / Occupier 21 Killyneill Road Dungannon BT71 6LL The Owner / Occupier 28 Killyneill Road Dungannon Tyrone BT71 6LL The Owner / Occupier 24 Killyneill Road Dungannon Tyrone BT71 6LL The Owner / Occupier 43 Killyneill Road Dungannon Tyrone BT71 6LL The Owner / Occupier 19 Killyneill Road Dungannon Tyrone BT71 6LL</p>	
Date of Last Neighbour Notification	8 February 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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

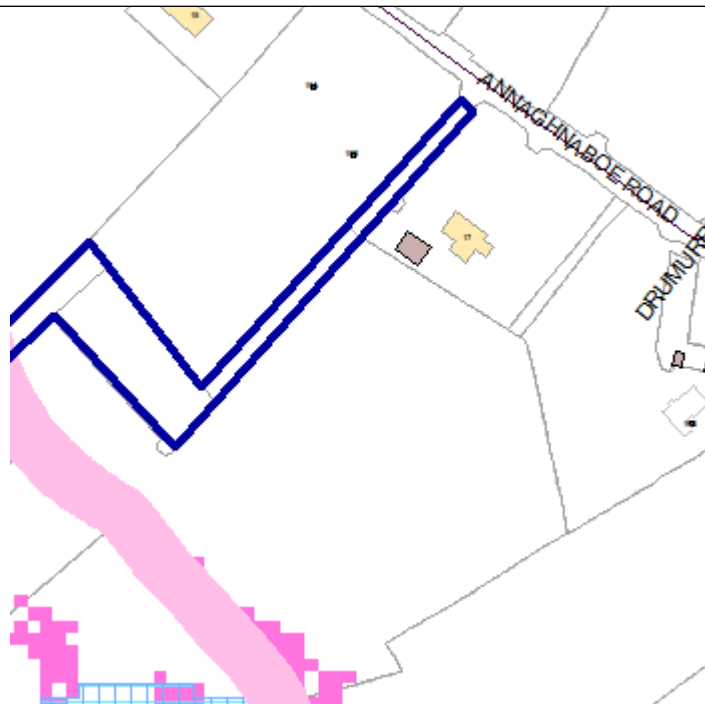


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 April 2024	Item Number: 5.10
Application ID: LA09/2023/0922/F	Target Date: 15 December 2023
Proposal: Retention of cattle shed and hard standing yard area	Location: Lands Located Approx 100M SouthWest of 17 Annaghoboe Road Coalisland
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Edward Dorman 17 Annaghoboe Road Coalisland BT71 4QH	Agent Name and Address: McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
Executive Summary: 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 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

The site is 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 12th 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 3rd 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 11th 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 27th 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 10th 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 24th 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 19th and 24th 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 26th 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 6th 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 9th 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 14th 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 19th 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 14th 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

ANNEX	
Date Valid	1 September 2023
Date First Advertised	12 September 2023
Date Last Advertised	12 September 2023
Details of Neighbour Notification (all addresses) 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	
Date of Last Neighbour Notification	4 September 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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 & 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	
Committee Meeting Date: 9 April 2024	Item Number: 5.11
Application ID: LA09/2023/1034/O	Target Date: 18 January 2024
Proposal: Off-site replacement dwelling, garage and associated site works	Location: Lands adjacent to and NE of 43 Annaghone Rd, Stewartstown, Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Matthew Leonard 43 Annaghone Rd Stewartstown Dungannon BT71 5PL	Agent Name and Address: Mr Simon Black 164 Tirnascobe Road Richhill BT61 9RF
Executive Summary:	

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.

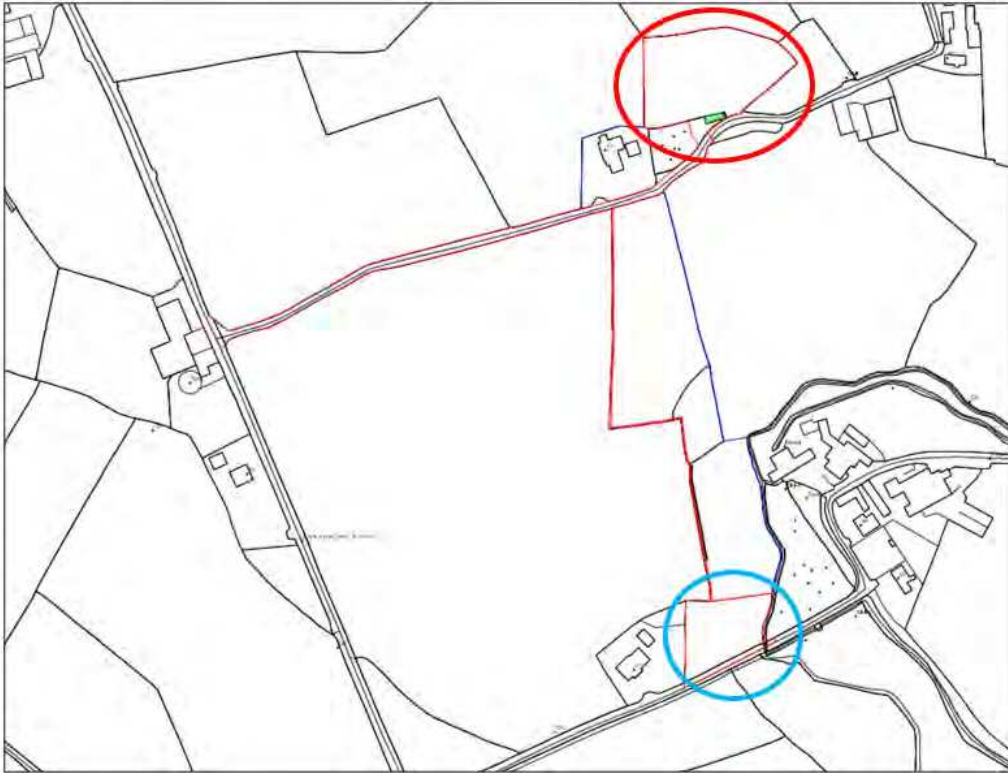


Fig 10: Location of current proposal circled red; and location of initial proposal circled blue.

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 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.

Planning History

- I/1997/0055 - Site for dwelling - Annaghone Road Stewartstown - Granted 17th March 1997
- I/1997/0432 - Dwelling and garage - Annaghone Road Stewartstown - Granted 17th 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 23rd October 2023 set out the reasons for objection and the second received on the 31st 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

ANNEX	
Date Valid	5 October 2023
Date First Advertised	2 January 2024
Date Last Advertised	17 October 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 47 Templereagh Road Stewartstown Tyrone BT71 5PJ</p> <p>The Owner / Occupier 43 Annaghone Road Stewartstown Tyrone BT71 5PL</p>	
Date of Last Neighbour Notification	12 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.12
Application ID: LA09/2023/1075/F	Target Date: 24 January 2024
Proposal: Conversion and reuse of a redundant farm building to provide a new single living unit	Location: Immediately to The rear of 25 Ballynahaye Road Cabragh Dungannon
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Brian Mulgrew 53 Cranlome Road Cranlome Dungannon	Agent Name and Address: McKeown and Shields Ltd 1 Annagher Road Coalisland Dungannon BT71 4NE
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	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

ANNEX	
Date Valid	11 October 2023
Date First Advertised	23 October 2023
Date Last Advertised	23 October 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 28 Ballynahaye Road Ballygawley Tyrone BT70 2HN The Owner / Occupier 30 Ballynahaye Road Ballygawley Tyrone BT70 2HN</p>	
Date of Last Neighbour Notification	31 October 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.13
Application ID: LA09/2023/1119/F	Target Date: 5 February 2024
Proposal: Replacement dwelling	Location: 40M South West of 38 Lisnamuck Road Tobermore
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Andrew Hopper 31 Draperstown Road Tobermore BT45 5QG	Agent Name and Address: CMI Planners 38A Airfield Road Antrim BT41 3SQ
Executive Summary: <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

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

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

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

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 characteristics 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 3rd 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

ANNEX	
Date Valid	23 October 2023
Date First Advertised	7 November 2023
Date Last Advertised	7 November 2023
Details of Neighbour Notification (all addresses) 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	
Date of Last Neighbour Notification	26 October 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
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	
Committee Meeting Date: 9 April 2024	Item Number: 5.14
Application ID: LA09/2023/1215/O	Target Date: 26 February 2024
Proposal: Site for two dwellings and detached garages - CTY8.	Location: Lands Located between No 21 and No 23 Halfgayne Road Maghera
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Francis Bradley 30 Sunnyside Park Maghera BT46 5BG	Agent Name and Address: 2Plan NI 47 Lough Fea Road Cookstown BT80 9QL
Executive Summary: <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.

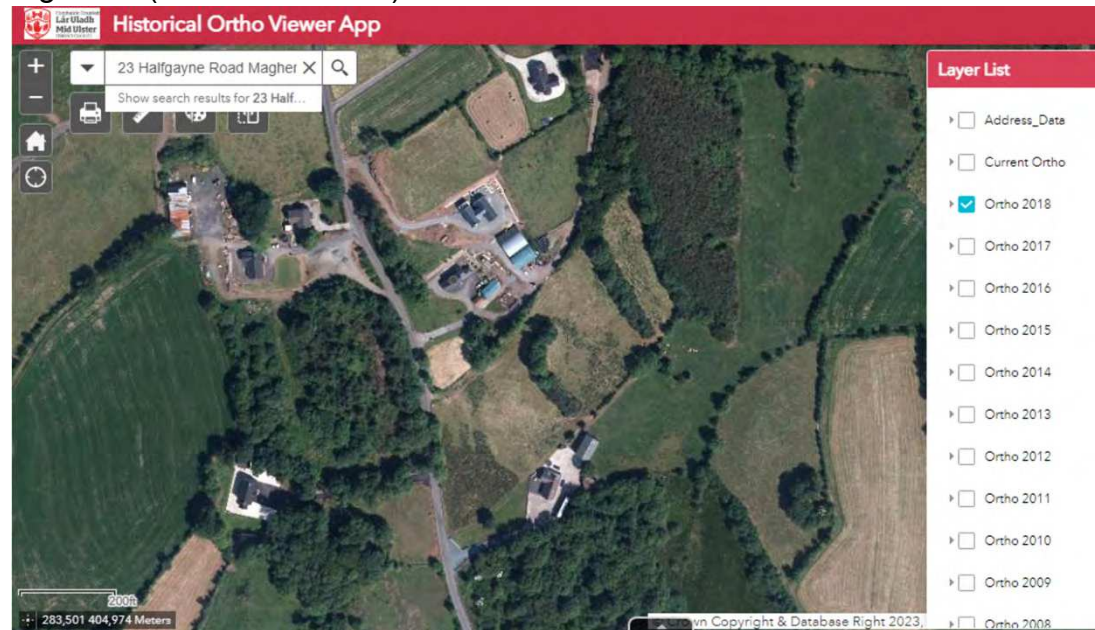
CTY 8 - Ribbon Development

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

ANNEX	
Date Valid	13 November 2023
Date First Advertised	28 November 2023
Date Last Advertised	28 November 2023
Details of Neighbour Notification (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	
Date of Last Neighbour Notification	21 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: H/2011/0158/F Proposals: Erection of agricultural shed Decision: Decision Date: Ref: H/2011/0368/F Proposals: Erection of Domestic Garage Decision: PG Decision Date: 26-SEP-11 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 Ref: LA09/2023/1215/O Proposals: Site for two dwellings and detached garages - CTY8.	

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	
Committee Meeting Date: 9 April 2024	Item Number: 5.15
Application ID: LA09/2023/1279/F	Target Date: 8 March 2024
Proposal: Extension to curtilage to provide garden space and domestic storage shed	Location: 96 Mullan Road Coagh
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Terence Maynes 86 Mullan Road Coagh BT80 0JF	Agent Name and Address: CMI Planners 38A Airfield Road Antrim BT41 3SQ
Executive Summary: 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:

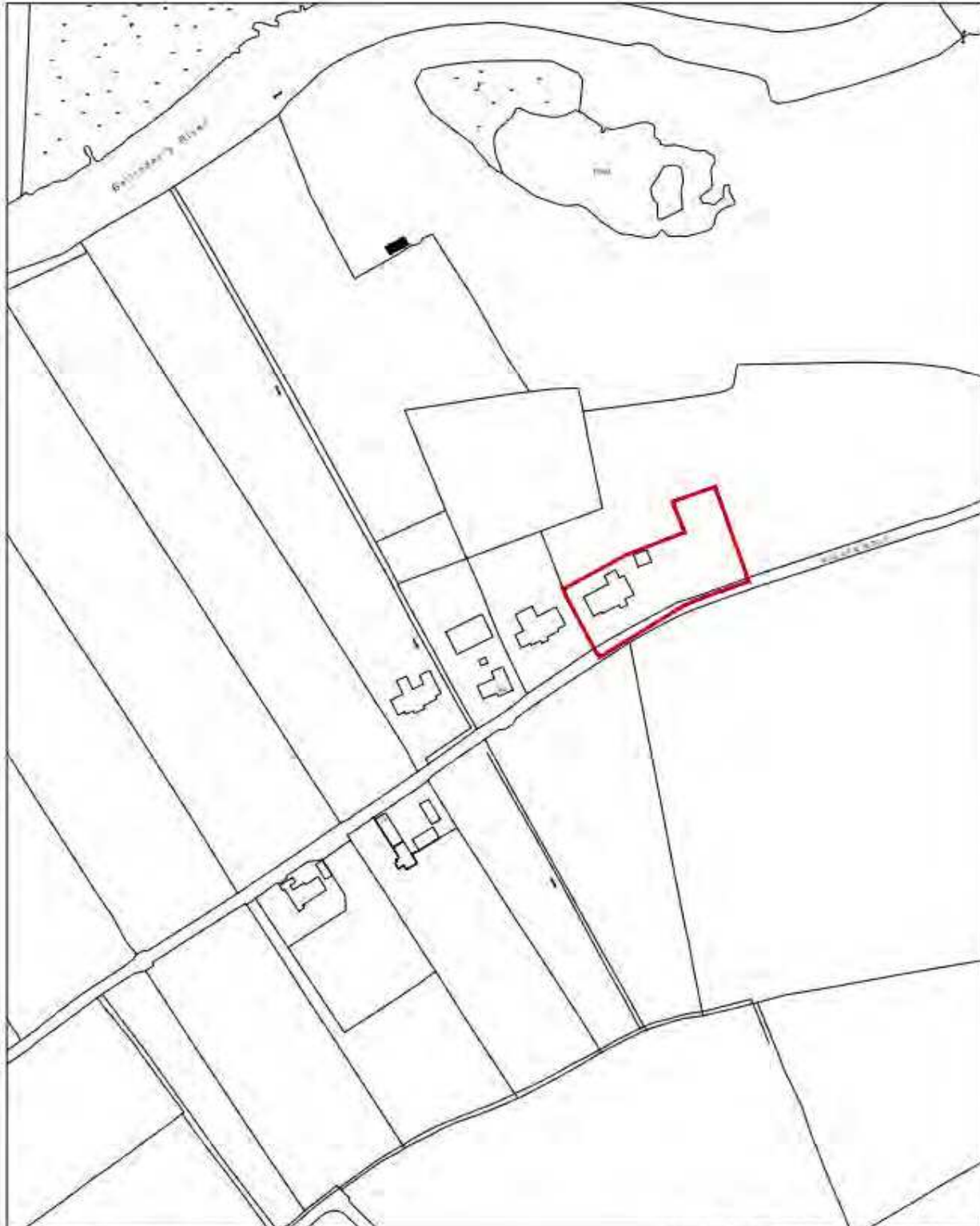
Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

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.

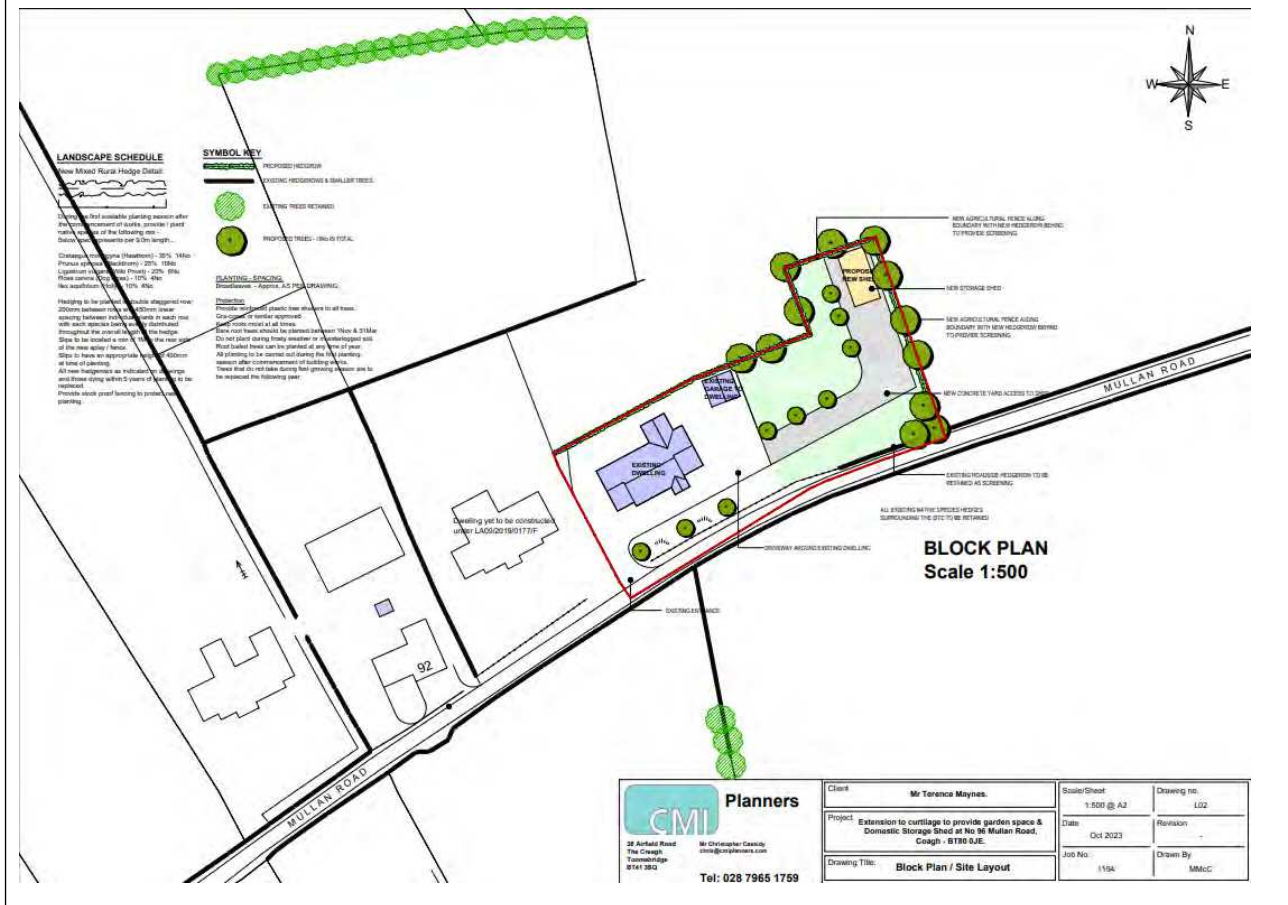


Location Plan
Scale 1:2500

O.S. Map Ref: 110-13 NE & 110-13 SE

Description of Proposal

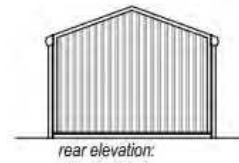
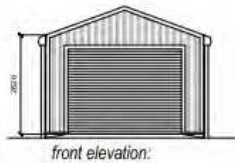
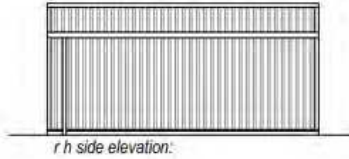
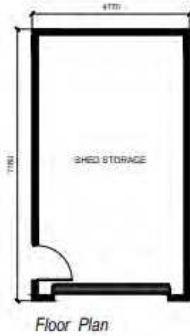
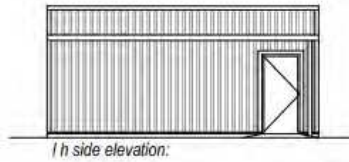
This is a full application for the proposed extension of curtilage to provide garden space and a domestic storage shed at 96 Mullan Road, Coagh.




CMI Planners
 22 Airfield Road
 The Cleeve
 Townsmills
 BT41 3BA
 Mr Christopher Cassidy
 info@cmiplanners.com
 Tel: 028 7965 1759

Client:	Mr Torrence Maynes	Scale/Sheet:	1:500 @ A3	Drawing No.:	L22
Project:	Extension to curtilage to provide garden space & Domestic Storage Shed at No 96 Mullan Road, Coagh - BT40 0JE.	Date:	Oct 2023	Revision:	-
Drawing Title:	Block Plan / Site Layout	Job No.:	1158A	Drawn By:	MM&C

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



 <p>CML Planners Ltd. 24 Richard Road The Grange Tomriscourt BT81 5DQ Tel: 028 7965 1759</p>	Client:	Mr Terence Mayne.	Scale/Sheet:	1:100 @ A3	Drawing no.	L53
	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 5th 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

ANNEX	
Date Valid	24 November 2023
Date First Advertised	19 December 2023
Date Last Advertised	19 December 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 92 Mullan Road Coagh Tyrone BT80 0JF The Owner / Occupier 94 Mullan Road Coagh Tyrone BT80 0JF	
Date of Last Neighbour Notification	28 November 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.16
Application ID: LA09/2023/1300/F	Target Date: 14 March 2024
Proposal: Alterations and 2 storey rear extension to existing dwelling	Location: 28 Moneymore Road Cookstown BT80 8EQ
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Michael Young 37 Craigadick Road Maghera BT46 5DE	Agent Name and Address: Mr Joe Diamond 77 Main Street Maghera BT46 5AB
Executive Summary: 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.

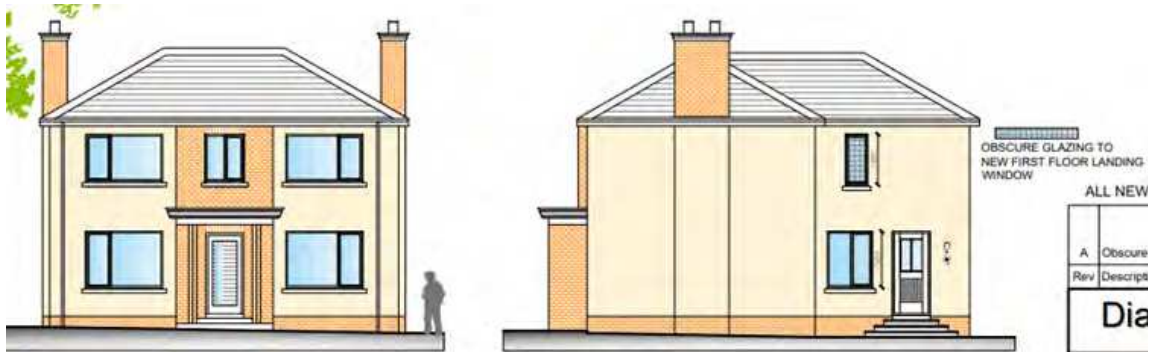
The rear of the dwelling is in a similar condition to the front elevation, although some of the windows were boarded closed, and there are no red brick finishes aside from the under build to the rear. The rear garden is also overgrown, with a mix of mature trees, bushes and shrubs and extends 30 metres 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 12th 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 28th of May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

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 94.13m², and the two-storey rear extension increases this by around 36.67m² which brings the overall total to approximately 130.80m², 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 25th 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.

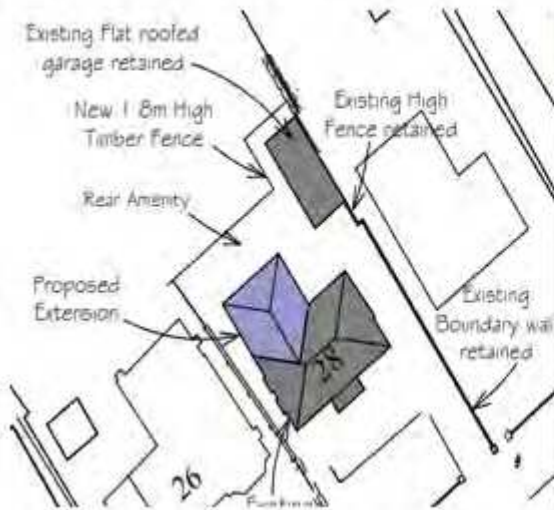
Assessment of amendments in the context of the objection.

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 25th of March 2024.

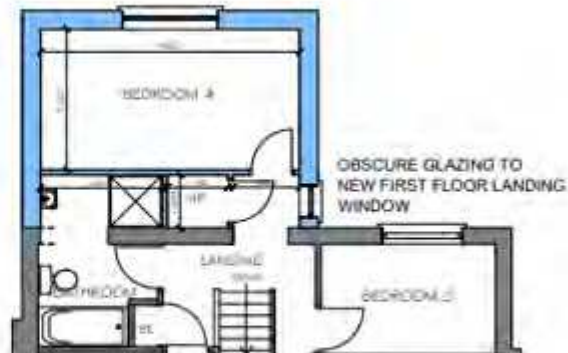
Much of the objectors worry centered on the existing garage along the common boundary being removed and not being illustrated on the initial site layout. Considering the revised plans and associated statement from the Agent, by retaining this existing structure and associated boundary treatments, the 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

ANNEX	
Date Valid	30 November 2023
Date First Advertised	12 December 2023
Date Last Advertised	12 December 2023
Details of Neighbour Notification (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	
Date of Last Neighbour Notification	20 February 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: I/2009/0053/O Proposals: Proposed site of 2 No. commercial retail units and 4 No. residential units Decision: Decision Date: 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 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	

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	
Committee Meeting Date: 9 April 2024	Item Number: 5.17
Application ID: LA09/2023/1311/F	Target Date: 19 March 2024
Proposal: 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)	Location: Site opposite 64 Feegarron Road, Cookstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr & Mrs Alan & Claire Boyle 4 Lissan Road Cookstown BT80 8EN	Agent Name and Address: Mr Mark Nelson Garden Studio 2 Craigmount Cookstown Cookstown BT80 9NG
Executive Summary: <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

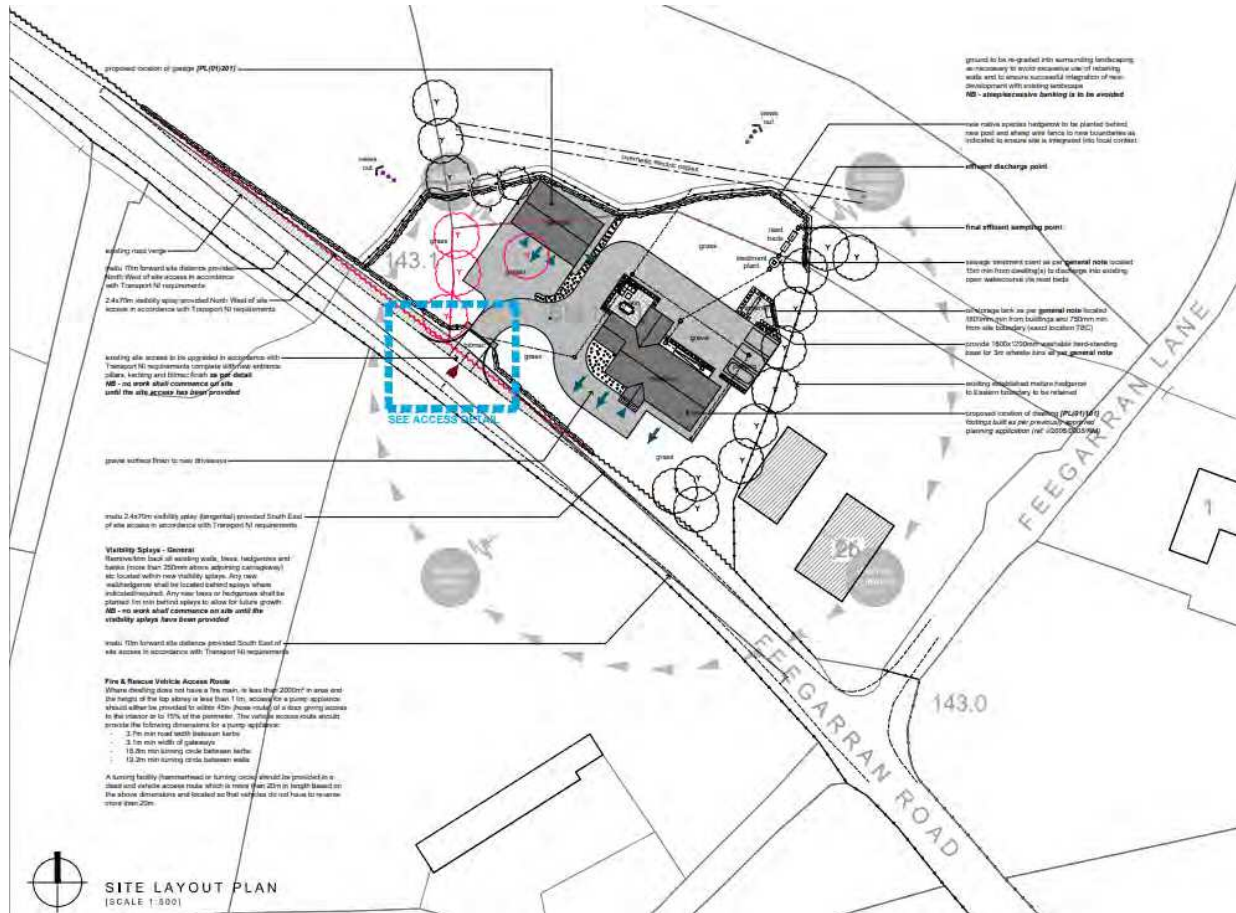
Characteristics of the Site and Area

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 (13th 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 2nd August 2023, stating that foundations were inspected on site on the 3rd 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 13th 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:

ANNEX	
Date Valid	5 December 2023
Date First Advertised	20 February 2024
Date Last Advertised	19 December 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 64 Feegarran Road Cookstown Tyrone BT80 9QS</p> <p>The Owner / Occupier 1 Feegarran Lane Cookstown Tyrone BT80 9QT</p> <p>The Owner / Occupier 64A Feegarran Road Cookstown Tyrone BT80 9QS</p> <p>The Owner / Occupier 2 2B Feegarran Lane Cookstown Tyrone BT80 9QT</p> <p>The Owner / Occupier RNN - 75 Feegarran Road Cookstown Tyrone</p>	
Date of Last Neighbour Notification	8 February 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: I/2008/0072/F Proposals: Overhead Single Phase Line of Wooden Poles (07/04241) Decision: PG Decision Date: 21-MAY-08</p> <p>Ref: I/1981/0283 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:</p> <p>Ref: I/1981/028301 Proposals: ERECTION OF BUNGALOW Decision: PG Decision Date:</p> <p>Ref: I/1991/4048</p>	

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

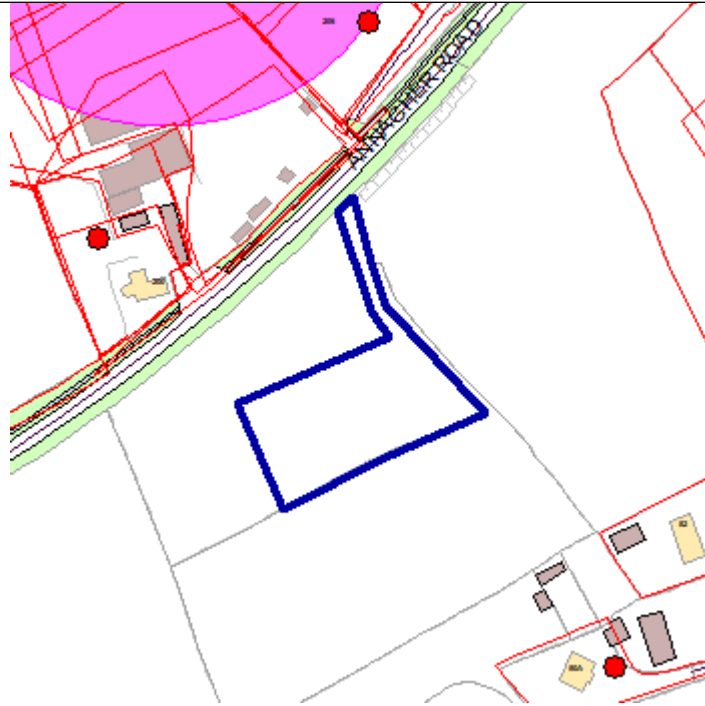


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 April 2024	Item Number: 5.18
Application ID: LA09/2023/1374/F	Target Date: 1 April 2024
Proposal: Farm Shed for Feeding & Shelter Area, Storage Area & Underground Slurry Tanks	Location: 76M South East of 200 Annagher Road Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr James McGrath 200 ANNAGHER ROAD DUNGANNON BT71 5DA	Agent Name and Address: Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
Executive Summary: 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>Summary of Issues</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>Characteristics of the Site and Area</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>Description of Proposal</p> <p>This is a full application for farm shed for feeding & shelter area, storage area & 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 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Dungannon and South Tyrone Area Plan 2010

The site is 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 15th 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 20th 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 19th February 2024 that the applicant is a category 1 farmer and his DAERA business ID was allocated on the 28th 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 31st 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.

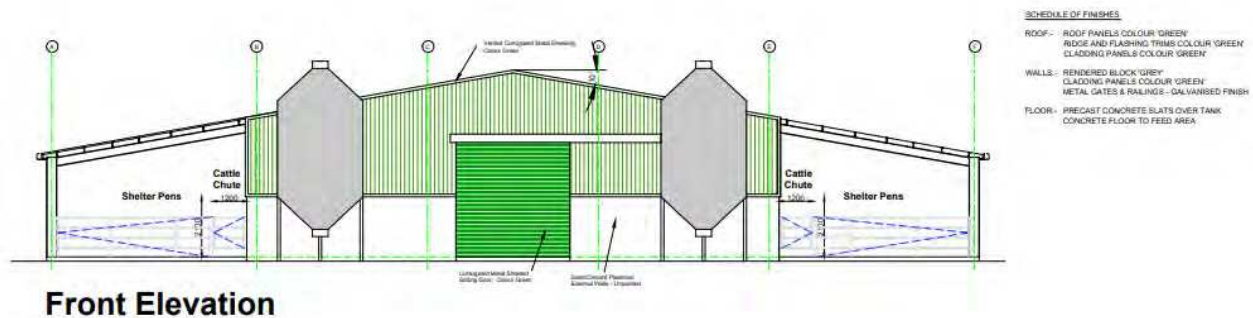


Figure 1 – Image of proposed shed

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 12th March 2024. They state the nearest 3rd 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 31st 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 9th 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

ANNEX	
Date Valid	18 December 2023
Date First Advertised	9 January 2024
Date Last Advertised	9 January 2024
Details of Neighbour Notification (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	
Date of Last Neighbour Notification	19 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2023/1374/F Proposals: Farm Shed for Feeding & Shelter Area, Storage Area & Underground Slurry Tanks Decision: Decision Date:	
Summary of Consultee Responses 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	
Committee Meeting Date: 9 April 2024	Item Number: 5.19
Application ID: LA09/2023/1381/O	Target Date: 2 April 2024
Proposal: Dwelling and garage (infill)	Location: 35M SE of 37 Ballynacross Road, Knockloghrim
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: T Elliott Esq 23 Ballynacross Road Knockloghrim Magherafelt BT45 8PY	Agent Name and Address: Russell Finlay 350 Hillhead Road Knockloughrim Magherafelt BT45 8QT
Executive Summary: <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.

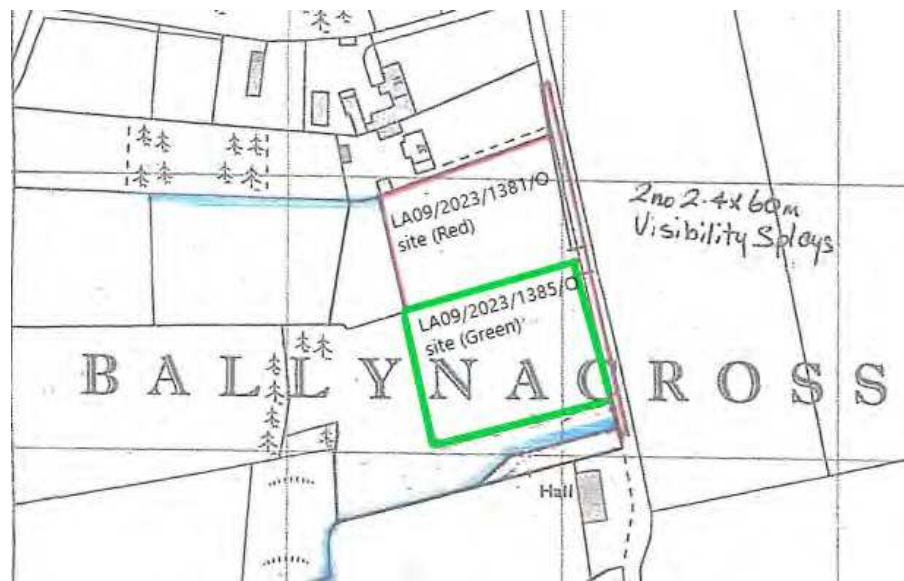
CTY 8 - Ribbon Development

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.

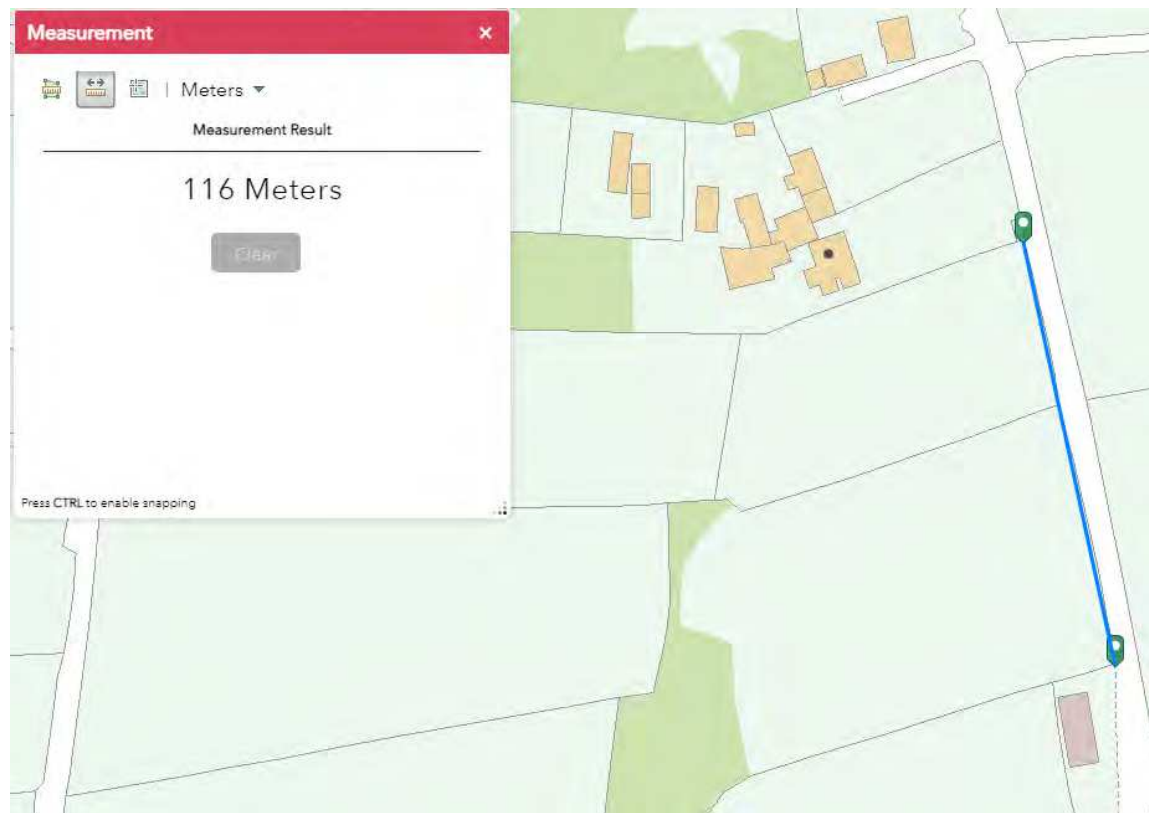
Furthermore, the gap site in question currently appears as a visual break between the small cluster of development to the North and to a degree, a cluster of development to the south. I hold the view that the proposal is contrary to Paragraph 5.34 of CTY8 in that if approved the proposed will erode on 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

ANNEX	
Date Valid	19 December 2023
Date First Advertised	9 January 2024
Date Last Advertised	9 January 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 39 Ballynacross Road Knockcloghrim Magherafelt Londonderry BT45 8PY The Owner / Occupier 37 Ballynacross Road, Magherafelt, Londonderry, BT45 8PY	
Date of Last Neighbour Notification	21 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2023/1381/O Proposals: Dwelling and garage (infill) Decision: Decision Date:</p> <p>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</p> <p>Ref: LA09/2023/1385/O Proposals: Dwelling and garage (infill) Decision: Decision Date:</p> <p>Ref: H/1978/0315 Proposals: PORCH AND ALTERATIONS AND ADDITIONS TO BUNGALOW Decision: PG Decision Date:</p> <p>Ref: H/2005/0901/O</p>	

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	
Committee Meeting Date: 9 April 2024	Item Number: 5.20
Application ID: LA09/2023/1385/O	Target Date: 2 April 2024
Proposal: Dwelling and garage (infill)	Location: 85M SE of 37 Ballynacross Road, Knockloghrim
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: T Elliott Esq 23 Ballynacross Road Knockcloghrim Magherafelt BT45 8PY	Agent Name and Address: Russell Finlay Building Design Consultant 350 Hillhead Road Knockcloughrim Magherafelt BT45 8QT
Executive Summary: <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.

APPLICATION NUMBER – LA09/2023/1385/O

ACKN

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.

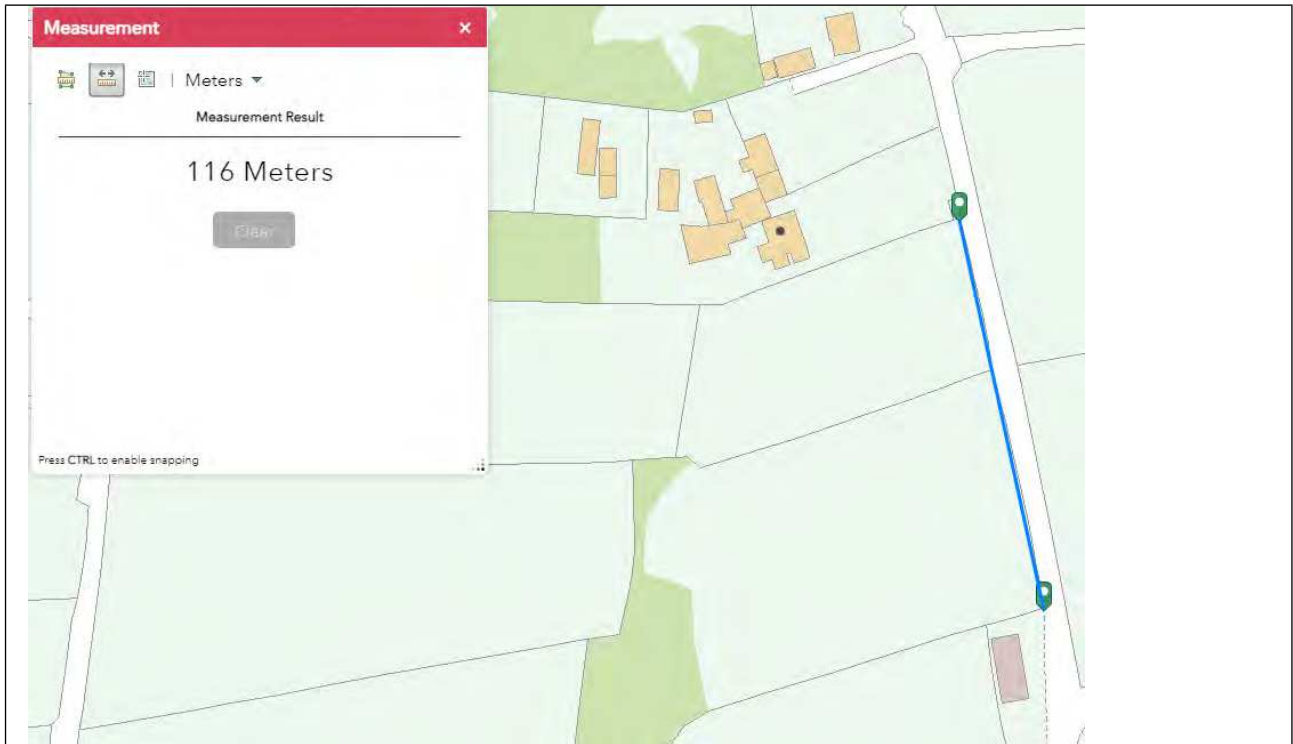
Between the dwelling at No. 37 Ballynacross Road and the building No. 39 Ballynacross Road there is a gap of approximately 116 metres (Figure 2). The plot of frontage of No. 37 is approximately 28m, and the plot size of No. 39 is approximately 45m. Therefore, the size of this gap can be considered significantly 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

ANNEX	
Date Valid	19 December 2023
Date First Advertised	9 January 2024
Date Last Advertised	9 January 2024
Details of Neighbour Notification (all addresses) The Owner / Occupier 39 Ballynacross Road Knockcloghrim Magherafelt Londonderry BT45 8PY The Owner / Occupier 37 Ballynacross Road, Magherafelt, Londonderry, BT45 8PY	
Date of Last Neighbour Notification	21 December 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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 & 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	
Committee Meeting Date: 9 April 2024	Item Number: 5.21
Application ID: LA09/2023/1402/LDP	Target Date: 15 February 2024
Proposal: Completion of detached dwelling (site 31) as per planning permission H/2005/0601/F	Location: Lands 45M North-East of No 34 Moneyneany Road Moneyneany Draperstown
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Brendan Doyle 79 Dromdallagan Draperstown Magherafelt BT45 7EY	Agent Name and Address: Mr Dermot Monaghan 4 College House Citylink Business Park Belfast BT12 4HQ
Executive Summary:	

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 28th 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 28th of October 2013.

The applicant is relying on foundations and an individual access being implemented at site 31 prior to the deadline of 28th 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 16th 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 26th 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 25th of September 2013. To support this, the applicant provided an invoice and letter (dated 25th September 2013 and 19th October 2023 respectively) from building control, confirming that “work commenced on the above development (H/2005/0601/F) on 25th 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 16th 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.





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 28th 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 Site 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:

ANNEX	
Date Valid	21 December 2023
Date First Advertised	
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.22
Application ID: LA09/2024/0035/O	Target Date: 30 April 2024
Proposal: Proposed dwelling & garage	Location: 300M North of 74 Moneyhaw Road Drumullan Moneymore
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Mr Fergus Bell 74 Moneyhaw Road Drumullan Moneymore BT45 7XR	Agent Name and Address: C Mcllvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
Executive Summary: <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 29th 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

ANNEX	
Date Valid	16 January 2024
Date First Advertised	30 January 2024
Date Last Advertised	30 January 2024
Details of Neighbour Notification (all addresses) 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	
Date of Last Neighbour Notification	29 January 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Ref: I/1992/0344 Proposals: Dwelling Decision: PR Decision Date:	
Ref: I/2003/0815/O Proposals: Proposed dwelling and garage Decision: PG Decision Date: 10-MAR-04	
Ref: I/2001/0118/O Proposals: Proposed Site for new Dwelling Decision: PR Decision Date: 20-FEB-02	
Ref: I/1996/0490 Proposals: Site for Dwelling Decision: PR Decision Date:	

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	
Committee Meeting Date: 9 April 2024	Item Number: 5.23
Application ID: LA09/2024/0097/F	Target Date: 13 May 2024
Proposal: Change of use from residential to office (retrospective)	Location: 14 King Street Magherafelt
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Les Ross Planning 14 King Street Magherafelt BT45 6AR	Agent Name and Address: Hayley Dallas 14 King Street Magherafelt BT45 6AR
Executive Summary: <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

ANNEX	
Date Valid	29 January 2024
Date First Advertised	6 February 2024
Date Last Advertised	6 February 2024
Details of Neighbour Notification (all addresses) 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	
Date of Last Neighbour Notification	31 January 2024
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<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	
Committee Meeting Date: 9 April 2024	Item Number: 5.24
Application ID: LA09/2024/0138/RM	Target Date: 21 May 2024
Proposal: Ciaran and Emer Devlin Reserved matters application for a dwelling and garage	Location: Land East of 91 Creagh Road Castledawson BT45 8EY
Referral Route: Approve is recommended	
Recommendation: Approve	
Applicant Name and Address: Ciaran and Emer Devlin 20 Rectory Manor Randalstown BT41 3FN	Agent Name and Address: Ryan Dougan 31 Rainey Street Magherafelt BT45 5DA
Executive Summary: 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 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination. In light of this, the draft Plan Strategy does not yet carry determining weight.

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

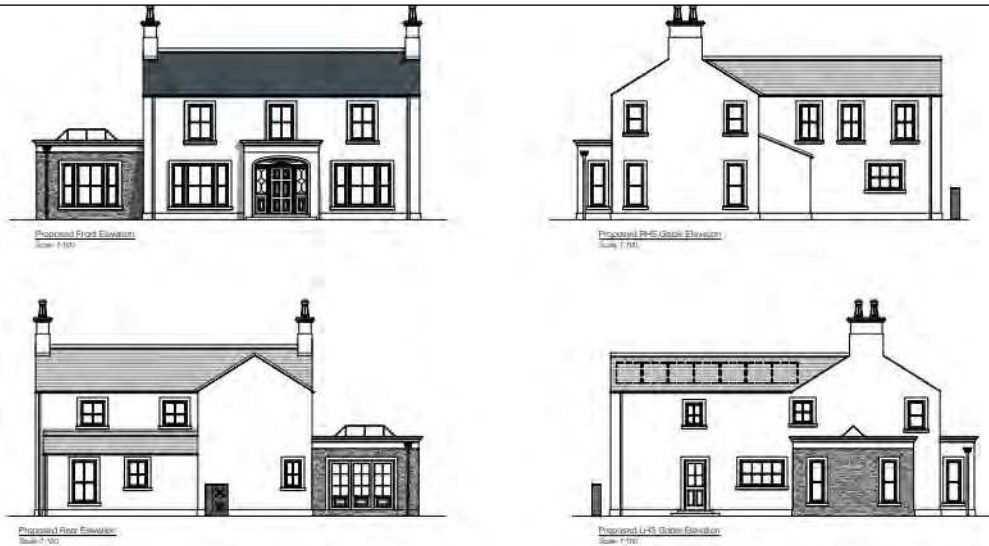
Planning Policy Statement 3 – Access, Movement and Parking

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

ANNEX	
Date Valid	6 February 2024
Date First Advertised	20 February 2024
Date Last Advertised	20 February 2024
Details of Neighbour Notification (all addresses)	
<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>	
Date of Last Neighbour Notification	14 February 2024
Date of EIA Determination	
ES Requested	<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



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0268/F	Target Date: <add date>
Proposal: Proposed replacement of existing turbine approved under I/2014/0394/F with an EWT DW54 250KW turbine comprising of 40m hub height and blade span of 27m (overall tip height of 67m). (amended description)	Location: Approximately 210m South East of 40 Gortagammon Road Cookstown
Applicant Name and Address: Arena Capital Partners Dublin Airport Business Pk 107 Swords Road Santry Dublin	Agent Name and Address: TC Town Planning Unit C12 The Business Centre 80-82 Rainey Street Magherafelt BT45 5AJ
Summary of Issues: This application is for the replacement of an existing wind turbine with a larger turbine with a higher hub height (40m instead of 31m) and larger blade (27m instead of 14.5m). The turbine will be a prominent feature in the local landscape, HED have now offered no objections to the proposed turbine and EHO have assessed noise from the turbine and note the noise will be lower than existing.	
Summary of Consultee Responses: NIEA – no objections in relation to natural heritage impacts (bats and other protected species), water regulation unit refer to standing advice SES – no pathways to European sites, consulted in error HED – assessment of impacts provided, no longer have objections EHO – proposed turbine less noisy than existing, recommends conditions Belfast International Airport – developer to provide information once erected and requested to steady red obstacle light National Air Traffic Services – no response received	

RSPB – no objections
NI Water – no objection
EIRCOM UK Ltd – no response received
DIO – do not object
PSNI – unlikely to have an impact
OFCOM – no response received
NIE – object, turbine height plus 10% within fallover distance of 11KV Power line (63m form

Characteristics of the Site and Area:

The site is located approximately 210m South East of 40 Gortagammon Road, Cookstown and is accessed via a farm lane, which also serves the dwelling at no.40 Gortagammon Road. Currently on site is a single turbine with 31 m hub height , 29 m rotor diameter, granted under I/2014/0394/F. The lane way access is from the Gortagammon Road. The site is elevated from the road (sitting at approx. 81.93m), in a large, irregularly shaped agricultural field. While the wider boundary of the field is bounded with hedgerows and stock fencing, it is at a lower level to where the turbine is located and there is no vegetation immediately surrounding the Wind turbine. The surrounding area is predominantly rural with a quarry to the south east and the village of Tullyhogue to the north west.

Description of Proposal

Proposed replacement of existing turbine approved under I/2014/0394/F with an EWT DW54 250KW turbine comprising of 40m hub height and blade span of 27m (overall tip height of 67m).

Deferred Consideration:

This application was before the Planning Committee in July 2022 where it was deferred for a meeting with the Service Director. Following a meeting in September 2022 the applicants provided additional information in relation to the size and scale of the proposal, its appearance in the local area, visual impacts on the surrounding area and noise impact assessments.

Further consultation was undertaken with Historic Environment Division and colleagues in the Environmental Health Department with the additional information that was provided. HED have advised they no longer have any objections to the proposed development or its impacts on the historic environment, including Tullyhogue Fort. EHO have assessed the noise report and note the proposed turbine will have a reduction in overall noise compared to the existing turbine on the site.

Members are advised this turbine will have a greater visual impact than the existing turbine, it will have a larger blade diameter of 54m compared to the existing 29m diameter blade and its hub will be 9 metres higher than the existing turbine. The turbine will appear approx.. 1/3 larger than the existing. Critical views of the turbine will be on approach from the village of Tullyhogue approx. 1km to the north, and for a distance of just over 0.5km on approach to the turbine from the village. From this location the existing turbine occupies a prominent location with limited intervening vegetation or land from to soften its appearance.



Pic 1 - View of existing turbine from Tullyhogue village



Pic 2 View of proposed turbine from Tullyhogue village

Closer to the turbine the roadside vegetation provides some cover and filters out close-up views. That said, the proposed turbine type has been constructed on a similar open locations approx. 2kms to the NE of this site (Sessiagh Road) where it does not appear to be unduly out of place or affect the overall character of the area. This turbine has also been approved 2.7kms SE of this site (Between West Street and Annaghone Road, Stewartstown) though it has since received consent for a smaller Vesta turbine on 40m pole with 23.5m blade. The turbine here and at Stewartstown are intervisible in the landscape from Gortgammon Road with the Stewartstown turbine on a more elevated site. From checks of other sites it appears this turbine type has been used in a number of other locations as a re-powering model for existing turbines and as such the principle of this type and size of turbine has been established. Members are advised that whilst this turbine model has been approved in other locations, each site must be assessed on its own merits.

Taking account of the comments received from the other consultees, there does not appear to be any significant objections from them. I note NIE have objected as they have 11KV overhead lines within 63 metres of the turbine, therefore if the turbine were to fall it could affect their infrastructure. The 11KV line is a rural spur and should it be damaged, the operator and NIE would have to agree responsibility. I do not consider this is a sufficient reason to refuse planning permission.

A shadow flicker analysis has indicated that some properties may be impacted by shadow flicker. This occurs at certain times of the day and year, when the sun is shining and there is sufficient wind speeds to cause the turbine to cast a shadow on window openings facing towards the turbine. The analysis has identified the times of year and properties that may be affected. This may be mitigated by turning off the turbine when the conditions are likely to cause shadow flicker. I consider this can be dealt with by way of a condition and the operator can provided details of how they intend to mitigate this.

While the turbine will have a greater visual impact on the local area, HED have confirmed that it will not adversely impact on historic fabric and EHO have indicated it will have less impacts from noise. Wind turbines, by their very nature, will be obvious in the landscape as they are tall structures. In this case given the existing visual commitment from the existing turbine and my assessment of the visual impacts of similar turbines erected at Sessiagh Road and Legilly Road, I do not consider the proposal would have such a detrimental impact on the overall character of the area to warrant refusal and as such recommend it is approved with conditions.

Conditions/Reasons for Refusal:

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason: Time Limit

2. The approved turbine shall not become operational until the existing turbine located within the site outlined in red on drawing no 02RevB received 25 MAR 2022 has been decommissioned and removed from the site.

Reason: In the interests of residential amenity.

3. The turbine hereby approved shall be a 40m hub height EWT DW54 turbine with a generating capacity curtailed to 250kW. The approved turbine shall be located at Irish Grid co-ordinates E283040 N372902 unless otherwise agreed in writing (in consultation with the Environmental Health Service) with the Local Planning Department.

Reason: In the interests of residential amenity.

4. The level of noise imissions from the wind turbine (including the application of any tonal penalty when calculated in accordance with the procedures described in Pages 104-109 of ETSU-R-97 and the Institute of Acoustic's Good Practice Guide) at all times shall not exceed the values set out in table 6.8 (Comparison of Quiet Day Timer Predicted Against Noise Limits) and table 6.9 (Comparison of Night Time Predicted Against Noise Limits) of the Neo Environmental report titled "Noise Impact Assessment, Gortgammon Road Wind Turbine", dated 7thMarch 2023. Noise limits for dwellings which lawfully exist or have planning permission for construction at the date of this consent but are not listed in table 6.8 & 6.9 shall be those of the physically closest location listed in the table, unless otherwise agreed in writing (in consultation with the Environmental Health Service) with the Local Planning Department.

Reason: In the interests of residential amenity.

5. Within 28 days of being notified by the Planning Department of a reasonable complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of consent, the wind turbine operator shall, at his/her own expense employ a

consultant, approved by the Planning Department, to assess the level of noise emissions from the wind turbine at the complainant's property following the procedures described in the Institute of Acoustic's Good Practice Guide. The Department shall be notified not less than two weeks in advance of the date of the commencement of the noise monitoring.

Reason: In the interests of residential amenity.

6. The wind turbine operator shall provide to the Planning Department the consultant's assessment and conclusions regarding the said noise complaint, including all calculations, audio recordings and the raw data upon which that Issued on behalf of Environmental Health Service Contact Tel No: 03000 132 132 assessment and conclusions are based. Such information shall be provided within three months of the date of the written request of the Department unless otherwise extended in writing by the Department.

Reason: In the interests of residential amenity.

7. Wind speed, wind direction and power generation data shall be continuously logged throughout the period of operation of the wind turbine. The data shall be retained for a period of not less than 12 months. At the request of Mid Ulster District Council, the recorded wind data, standardised to 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint, shall be made available to Mid Ulster District Council.

Reason: In the interests of residential amenity.

8. Within 4 weeks from receipt of a written request from Mid Ulster District Council, following an amplitude modulation (AM) complaint from the occupant of a dwelling which lawfully exists or has planning permission at the date of this consent, the wind turbine operator shall submit a scheme for the assessment and regulation of AM to Mid Ulster District Council for its written approval. The applicant must ensure that the Institute of Acoustics metric shall be applied to the data collected to derive the reconstructed AM values for consecutive 10- minute periods, as per the 'IOA Noise Working Group (Wind Turbine Noise), Amplitude Modulation Working Group Final Report - A Method for Rating Amplitude Modulation in Wind Turbine Noise – 9th August 2016 - Version 1'. For each period with an AM value of equal to or greater than 3 dB, a penalty shall be assigned in accordance with Figure 1 below, and added to the absolute level of noise. Each summed value of Overall average level (corrected for background where necessary) + AM penalty + Tonal Penalty (if applicable) shall be binned into wind speeds of 1 m/s intervals over the range of the data for when the turbine is operating and complaints occurring. Where the number of 10-minute breaches at any given wind speed during the period of complaint is considered to be unacceptable by Mid Ulster District Council, the operator shall submit details of a scheme describing proposals for suitable mitigation of the unacceptable AM periods to reduce the number of breaches during the operational conditions giving rise to the complaint, to that considered acceptable by Mid Ulster District Council and then implement such a scheme in a time period agreed with Mid Ulster District Council.

Reason: In the interests of residential amenity.

9. 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 -13:00 hours on Saturday with no works being undertaken on Public/Bank Holidays. Outside of these hours, work at the site shall be limited to turbine erection, testing/commissioning works, emergency works, or construction work that is not audible at any noise sensitive property.

Reason: In the interests of residential amenity.

10. Prior to the turbine hereby approved becoming operational the operator shall provide Mid Ulster District Council Planning Department with details of a scheme of mitigation to prevent shadow flicker from the turbine and shall have this condition discharged in writing by Mid Ulster District Council Planning Department. The scheme as agreed shall be implemented prior to the turbine becoming operational and shall be maintained in an operational condition for the lifetime of the turbine.

Reason: In the interests of residential amenity.

11. In the event the Council receive a complaint in relation to shadow flicker caused by the turbine hereby approved from a lawfully constructed and occupied dwelling, the turbine shall be shut down until such times as the operator can demonstrate to the Council that all mitigation measure have been adhered to and that shadow flicker is no longer impacting on the complainant.

Reason: In the interests of residential amenity.

12. Within 12 months of the cessation of electricity generation by the turbine hereby approved, the turbine and all above ground structures shall be removed and the land restored to agricultural use unless otherwise agreed in writing with the Council.

Reason: In the interest of visual amenity.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Mid-Ulster

Local Planning Office

Mid-Ulster Council Offices

50 Ballyronan Road


Magherafelt

BT45 6EN

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0268/F	Target Date:
Proposal: Proposed replacement of existing turbine approved under I/2014/0394/F with an EWT DW54 250KW turbine comprising of 40m hub height and blade span of 27m (overall tip height of 67m). (amended description)	Location: Approximately 210m South East of 40 Gortagammon Road Cookstown
Referral Route: Committee	
Recommendation:	Refusal
Applicant Name and Address: Arena Capital Partners Dublin Airport Business Pk 107 Swords Road Santry Dublin	Agent Name and Address: TC Town Planning Unit C12 The Business Centre 80-82 Rainey Street Magherafelt BT45 5AJ
Executive Summary:	
Signature(s):	



Case Officer Report		
Site Location Plan		
		
Consultations:		
Consultation Type	Consultee	Response
Statutory	NIE - Enniskillen	Advice
Statutory	NIEA	Advice
Statutory	Shared Environmental Services	Error
Statutory	Historic Environment Division (HED)	Advice
Statutory	Environmental Health Mid Ulster Council	Additional Information Required
Non Statutory	Belfast International Airport	Substantive Response Received
Non Statutory	National Air Traffic Services	
Non Statutory	Royal Society for the Protection of Birds - Headquarters	Substantive Response Received
Non Statutory	Eircom UK Limited	No Objection
Non Statutory	N.I Water - Windfarms	No Objection
Non Statutory	Ofcom Northern Ireland	
Non Statutory	P.S.N.I. Information And Communications Services	Substantive Response Received
Non Statutory	UK Crown Bodies - D.I.O. LMS	Considered - No Comment Necessary
Statutory	Environmental Health Mid Ulster Council	

Non Statutory	Environmental Health Mid Ulster Council	
Statutory	NIE - Enniskillen	
Statutory	Historic Environment Division (HED)	Error
Statutory	Historic Environment Division (HED)	
Statutory	NIE - Enniskillen	
Statutory	Historic Environment Division (HED)	
Non Statutory	National Air Traffic Services	
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
REFUSAL		
Characteristics of the Site and Area		
<p>The site is located approximately 210m South East of 40 Gortagammon Road, Cookstown and is accessed via a farm lane, which also serves the dwelling at no.40 Gortagammon Road. Currently on site is a single turbine with 31 m hub height , 29 m rotor diameter, granted under I/2014/0394/F.</p> <p>The lane way access is from the Gortagammon Road. The site is elevated from the road (sitting at approx. 81.93m), in a large, irregularly shaped agricultural field. While the wider boundary of the field is bounded with hedgerows and stock fencing, it is at a lower level to where the turbine is located and there is no vegetation immediately surrounding the Wind turbine. The surrounding area is predominantly rural.</p>		
Description of Proposal		
Proposed replacement of existing turbine approved under I/2014/0394/F with an EWT DW54 250KW turbine comprising of 40m hub height and blade span of 27m (overall tip height of 67m). (amended description)		
Planning Assessment of Policy and Other Material Considerations		
<p>Planning Act 2011</p> <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</p>		

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.

Cookstown Area Plan 2010: The site is located outside settlement limits and is located in the open 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. 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.

Key Planning Policy

SPPS Strategic Planning Policy Statement for NI

PPS21 Sustainable Development in the Countryside

PPS18 Renewable Energy

PPS2 Natural Heritage

Guidance

Best Practice Guidance to PPS 18 'Renewable Energy'

Wind Energy Development in Northern Ireland Landscapes

Relevant Planning History

Reference	Location	Proposal/Complaint	Status	Date
LA09/2017/0073/F	210m East/South East of 40 Gortagam	Remove Condition No's 4 and 5 of Planning Approval I	PERMISSION GRANTED	02.05.2017
LA09/2021/0268/F	Approximately 210m South East of 40 Gortagam	Proposed replacement of existing turbine approved und	VALID APPLICATION RECEIVED	
I/2013/0375/F	314m east/north east of 40 Gortagam	Proposed erection of a wind turbine with a 30m hub hei	PERMISSION GRANTED	13.05.2014
I/2014/0394/F	210m east/south east of 40 Gortagam	Relocation of previously approved wind turbine applica	PERMISSION GRANTED	10.03.2015
LA09/2017/0038/CA	210m East/South East Of 40 Gortagam	Blade on Turbine is not as approved on application I/20	ENFORCEMENT CASE CLOSED	26.10.2017

3rd Party Objections

NIE objected to the application, NIE networks high voltage overhead lines in very close proximity to the site of the proposed wind turbine. The proposed turbine would infringe on the required NIE Networks safety clearance.

The appropriate advertisement and neighbour notification has been carried out in accordance with Council's statutory duties.

Key Planning Policy

The proposal is for development in the countryside and falls for consideration under PPS21. Policy CTY1 of PPS21 states that Planning Permission will be granted for non-residential development that comply with the relevant PPS. This includes renewable energy projects in accordance with PPS18.

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

the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

The weight attached to the environmental, economic and social benefits that might occur as a result of a renewable energy proposal has changed with the introduction of SPPS. Planning Policy Statement 18 Renewable Energy, RE1 stated that the wider environmental, economic and social benefits of all proposals for renewable energy projects are material considerations that will be given significant weight in determining whether planning permission should be granted. Whereas in relation to renewable energy the SPPS states that appropriate weight should be given.

Therefore only appropriate weight can be given to any environmental, economic and social benefits that might occur as a result of the proposal rather than the significant weight as had been under PPS18 and this proposal will be assessed accordingly.

This proposed turbine has a hub height 9m higher than what is currently insitu (31m hub) and blade length of 27m compared to 29m. This was amended from what was originally submitted with the application in response to NIE networks consultation response, the original size submitted was 50m hub height and 27m blade span.

PPS 18 - Renewable Energy.

There are a number of factors specific to wind turbines that need to be considered when determining an application for planning permission:

Nature Conservation.

No European, National or Local environmental designations on or close to this site. NIEA and Shared Environmental Services do not raise any objections to this proposal.

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

Landscape and Visual Impact:

Wind Energy Development in Northern Ireland's Landscapes:

The supplementary planning guidance 'Wind Energy Development in Northern Ireland's Landscapes' has been taken into account in assessing this wind turbine proposal. The site lies within Landscape Character Area 42: Cookstown Farmlands, as defined within the NIEA publication 'Wind Energy Development in Northern Ireland's Landscapes' where it describes the scenic quality as moderate with an overall sensitivity to wind energy development being high to medium.

The proposed turbine will have a significantly greater visual impact than the existing turbine on site. I find this increase in size and scale to be detrimental to the visual character of this area of landscape. The public road network in this area is of a winding nature, the views of this turbine are consistent over long distances. The turbine is placed on the high point of an agricultural field. I find the visual impact of this turbine at this location to be unacceptable. The applicant has submitted a landscape and visual impact assessment with the application which states that the changes in the turbine model and dimensions will result in only a minor adverse effect on the overall characteristics of the Cookstown Farmlands LCA (no 42) and minor to moderate adverse effects on the nearest receptors. However, the planning department would disagree with this, as the existing turbine is already prominent in the local area any increase would result in an unacceptable level of prominence and a detrimental impact on the locality and neighbouring amenity. Due to the nature of the redline of the site it was not possible to neighbour notify the

nearest receptors. Photo 1 below shows the view from the dwelling located at 54 Gortagammon Road.



The viewpoint from Main street Tullyhogue, Shankey Road, Newmills Road, Annaghone road, submitted with the landscape and visual impact assessment (Figure 5b,6b, 7b, 8b,) are deemed to be prominent as it stands any further increase in size would result in an unacceptable detrimental impact on the surrounding area and neighbouring amenity.

Other policy considerations:

Ground Water Conditions/Geology:

It is not thought that the turbine will have any impact on the ground water conditions/geology in the area. Land in the area is stable agricultural land and the foundations of the existing turbine are intact with the surrounding land being in a stable condition. NIEA have not raised any concern in this regard.

Archaeology and the Built Heritage:

HED raised concerns that the replacement turbine will provide an adverse impact upon the setting of nearby historic monuments and historic garden sites; on public views from them and on any functional relationship between them. An archaeology and architectural Heritage Assessment Impact Assessment was submitted on 22.02.2022 and HED have been re consulted, at the time of writing this report HED had not responded again, however the Planning Manager was content to proceed to committee based on the grounds for refusal and this would not be impacted on by HED. If a response is received in the interim it will be presented at the Committee meeting.

Noise & Low Frequency Noise:

Environmental Health have been consulted on the Noise Impact Assessment which was submitted along with the application. Additional noise information was required and this has not yet been supplied by the applicant.

Safety:

PPS 18 considers that for small individual turbines, the fall over distance (i.e. the height of the turbine to the tip of the blade) plus 10% is often used as a safe separation distance from a road or building. The location of the turbine ensures that there are no properties or roads within the fall distance of the turbine.

Proximity to Road and Railways:

The turbine is located outside the recommended safe fall distance to any public road or railway.

Proximity to power lines.

NIE objected to the application, NIE networks high voltage overhead lines in very close proximity to the site of the proposed wind turbine. The proposed turbine would infringe on the required NIE Networks safety clearance. NIE were reconsulted on the amended proposal, however despite reminders being issued they still had not responded at the time of writing this report. The Planning Manager was content to proceed to committee at this stage. If a response is received in the meantime it will be presented at the committee meeting.

Electromagnetic Production:

The interference of tv reception/radio interference is unlikely in this single turbine proposal. No objection has been raised by UK Crown Bodies. No objections have been received on the existing turbine in terms of interference on existing electromagnetic links. JRC did not raise any concerns and cleared the turbine at this location.

Aviation interests:

There are no civilian or military air fields in close proximity to the proposal. No objection from National Air Traffic Safety. PPS 18 lays responsibility on the applicant to consult with the relevant bodies prior to submitting the application.

Shadow flicker:

Within the Best Practice Guidance to PPS 18 'Renewable Energy' it is recommended that properties should not experience more than a total of 30hr per year or 30 min per day threshold of shadowflicker from any turbine. In the UK, only properties 10 times the rotor diameters of the proposed siting of a turbine and 130 degrees either side of north will experience the effects of shadowflicker. The agent has carried out a shadowflicker assessment and has identified a number of properties that will experience impacts of shadowflicker. The results of the assessment show that receptors 3, 4, 5 were identified as potentially experiencing in excess of 30 hours of shadow flicker effect each year, as well as potentially in excess of 30 minutes of mean shadow flicker effect each day. When the results were adjusted for cloud cover and expected sun hours, no receptors within the 540m study area are expected to experience greater than 30 hours of shadow flicker per year or mean daily shadowflicker effects of more than 30minutes per day. These results were based on the original dimensions submitted (hub height 50m, Rotor diameter 54m and blade tip height 77m), an amended report has not been submitted with the revised plans therefore it is not possible to determine if the impact will have changed with the amendments.

Ice throw

This is not usually an issue in Northern Ireland. However, given the distance to neighbouring properties this is thought not to be an issue.

Reflected Light

Turbines are now usually designed with a matt finish to counter reflected light. Given the distance to properties I find this not to be an issue.

Appropriate environmental, economic and social benefits

While there may be some social and economic benefits associated with the new turbine, the visual and environmental impacts of the proposal are believed to result in significant detrimental impact on this area. After discussion with both the Principle Planner and the Planning Manager it was agreed that this proposal would be unacceptable.

Other Considerations

The site is not subject to flooding. There are no contamination issues identified on the site and no other issues have been raised by any other consultees.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That permission is refused

Conditions/Reasons for Refusal:

Reasons for Refusal:

1. Visual intrusion on the locality and detrimental impact on the neighbouring amenity.
2. Insufficient information submitted for Environmental Health to consider.

Signature(s)

Date:

ANNEX	
Date Valid	19th February 2021
Date First Advertised	9th March 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 40 Gortagammon Road, Tullyhogue, Cookstown, Tyrone, BT80 8UY	
Date of Last Neighbour Notification	21st April 2021
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: LA09/2017/0073/F Proposal: Remove Condition No's 4 and 5 of Planning Approval I/2014/0394/F (relating to Radar Mitigation Scheme) Address: 210m East/South East of 40 Gortagammon Road, Cookstown, Decision: PG Decision Date: 02.05.2017</p>	
<p>Ref ID: LA09/2021/0268/F Proposal: Proposed replacement of existing turbine approved under I/2014/0394/F with an EWT DW54 250KW turbine comprising of a 50m hub height and blade span of 27m (overall tip height of 77m) Address: Approximately 210m South East of 40 Gortagammon Road, Cookstown, Decision: Decision Date:</p>	
<p>Ref ID: I/2013/0375/F Proposal: Proposed erection of a wind turbine with a 30m hub height and a 30m rotor diameter with a max output not exceeding 250kw Address: 314m east/north east of 40 Gortagammon Road, Cookstown BT80 8UY, Decision: PG Decision Date: 13.05.2014</p>	
<p>Ref ID: I/2014/0394/F</p>	

Proposal: Relocation of previously approved wind turbine application (I/2013/0375/F) with a 31m hub height and 29m rotor diameter and output not exceeding 250 kw.
Address: 210m east/south east of 40 Gortagammon Road, Cookstown BT80 8UY,
Decision: PG
Decision Date: 10.03.2015

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
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Status: Submitted

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Drawing No.

<p>Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 03 Type: Proposed Plans Status: Submitted</p> <p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2021/1396/O Recommendation: Approve	Target Date: 18 November 2021
Proposal: Proposed site for housing development.	Location: 34 Main Street Tullyhogue Cookstown.
Applicant Name and Address: Calvert Development Ltd 5A Stewart Avenue Portadown BT63 5DA	Agent name and Address: Terry Murphy 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Summary of Issues: This application was first before Members at June 2023 Planning Committee. It was recommended for refusal as it was considered contrary to Policies QD 1 of PPS 7 and PED 8 of PPS 4 in terms of the noise impact from adjacent agricultural operations. Members agreed to defer the application for an office meeting which was facilitated on the 27th June 2003. Following this office meeting additional information was submitted in respect of noise and further consultation was carried out with Environmental Health. The application is now recommended for approval and the justification for this is provided further in this report.	
Summary of Consultee Responses:	
Characteristics of the Site and Area The site is currently occupied by a small vacant two storey dwelling located on a street frontage site within the settlement of Tullyhogue. The existing dwelling located at the front of the site is within an area of townscape character. The site is enclosed by a 1.5m high trimmed hedgerow to the rear of the public footpath and extending along both the northern and southern boundaries. There is a small field to the rear of the dwelling, which rises up gently towards the eastern boundary which is defined by a hedgerow with mature trees. The site backs onto O'Neill Park to the south, which is a Public Authority housing development	

of two storey terraced dwellings. To the north of the site is an agricultural merchants business which supplies animal feeds and fertilisers. The site sits approximately 3-4m above the agricultural merchants yard which has a large shed extending along the boundary with 2 large meal silos at the eastern gable end.

Description of Proposal

This is an outline application for a proposed site for housing development. A concept plan has been submitted and indicates a total of five dwellings. One detached dwelling is located at the Main Street frontage, facing onto the public road, with two pairs of semi-detached dwellings located further back on the site. A single access road extends along the northern boundary, next to the Hewitt's farm feeds business, to a turning head with four semi-detached dwellings at the end. These four dwellings back onto the public housing development of O'Neill Park.

Deferred Consideration:

This outline proposal for a housing development has raised policy concerns due to the proximity of the site to an animal feeds merchants yard located immediately to the North. The initial assessment of the application considered that the proposal has the potential to create a conflict with adjacent land uses. Initial consultation with Environmental Health highlighted concerns regarding noise from the nearby agricultural merchants on the proposed development. Under the initial consideration the applicant submitted a noise impact assessment, however, this only served to reinforce Environmental Health's concerns about the suitability of the proposed development. Environmental Health advised that should the proposed development receive planning approval, and a justified noise complaint be received by a future occupant, they would have to consider enforcement action for statutory nuisance under Clean Neighbourhoods and Environmental Act (NI) 2011. They concluded that due to these concerns it was their opinion that the proposed development is an incompatible land use for this location. As such, the proposal was deemed contrary to criterion (h) of QD1 (PPS7) and policy PED 8 of (PPS 4).

The applicant has since submitted additional noise information, dated 10th October 2023, to address the noise impact arising from silo filling operations at the adjacent feed merchants. The noise impact from rear gardens has been considered along with mitigation such as acoustic barriers around the site and along the perimeters of rear gardens as well as triple glazing in windows. The surrounding context of the site has also been set out in the report.

Environmental Health have considered this additional information and have advised that they still have concerns regarding the suitability for a residential development so close to an existing high level intermittent noise source that could impact on future residential amenity. They have went on to advise that if the planning department are minded to approve the application then under any future application a revised layout should be considered to minimise impact and that detailed spec/drawings for acoustic barriers, glazing and alternative ventilation be provided.

Annex A of the SPPS recognises noise as a material consideration in determining planning applications. It advises that Planning Authorities should seek a balanced decision that considers noise issues alongside other material considerations, including the wider benefits of a particular proposal. It states that it may be appropriate to apply planning conditions in order to mitigate against excessive noise impacts. In this case, the application site is within the settlement limits of Tullyhogue, where there is a presumption in favour of comprehensive development provided scale, layout and detailed design are compatible with the scale and character of the settlement.

This proposal (conceptually) is for 5 units which is in keeping with the scale and character of the settlement. There are other residential developments in very close proximity to the site which are of a much higher density. There have been no third party objections to the proposal and it is my opinion that the mitigation proposed by Environmental Health would be a balanced and appropriate approach to deal with the noise concerns. It would allow the development of this site where there is a moderate demand for housing within the village.

It is noted that NIW have advised in their consultation response that whilst there is adequate waste water treatment capacity for the proposed residential development, there is no foul sewerage network capacity. It will be necessary to attach a pre-commencement condition to ensure that no development shall commence on site until a method of sewage disposal has been agreed in writing with NIW.

It is recommended that Members approve this application subject to the conditions set out below.

Conditions/Reasons for Refusal:

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

The under-mentioned reserved matters shall be as may be approved, in writing, by the Council:

Siting; the two dimensional location of buildings within the site.

Design; the two dimensional internal arrangement of buildings and uses and the floor space devoted to such uses, the three dimensional form of the buildings and the relationship with their surroundings including height, massing, number of storeys, general external appearance and suitability for the display of advertisements.

External appearance of the Buildings; the colour, texture and type of facing materials to be used for external walls and roofs, type of glazing.

Means of Access; the location and two dimensional design of vehicular and pedestrian access to the site from the surroundings and also the circulation, car parking, facilities for the loading and unloading of vehicles and access to individual buildings within the site.

Landscaping; the use of the site not covered by building(s) and the treatment thereof including the planting of trees, hedges, shrubs, grass, the laying of hard surface areas, the formation of banks, terraces or other earthworks and associated retaining walls, screening by fencing, walls or other means, the laying out of gardens and the provisions of other amenity features.

Reason: To enable the Council to consider in detail the proposed development of the site and to protect residential amenity

Condition 3

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 available to view on Public Access

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

Condition 4

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

The development shall be in accordance with the requirements of the Department's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the Department shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

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

Condition 5

No development shall commence on site until an appropriate method of sewage disposal has been submitted to the Council and agreed in writing with NIW.

Reason: To ensure adequate sewage disposal and protect against any negative environmental impacts.

Signature(s):Karla McKinless

Date: 26 March 2024



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 12 June 2023	Item Number: 5.9
Application ID: LA09/2021/1396/O	Target Date: 18 November 2021
Proposal: Proposed site for housing development.	Location: 34 Main Street Tullyhogue Cookstown.
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Calvert Development Ltd 5A Stewart Avenue Portadown BT63 5DA	Agent Name and Address: Terry Murphy 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response (2).pdf
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation outline approval.docxRS1 Form a (1).doc
Non Statutory Consultee	Environmental Health Mid Ulster Council	Planning response (3).pdf

Representations:

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

Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	
<p>Summary of Issues</p> <p>No representations have been received in respect of this application.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is currently occupied by a small vacant two storey dwelling located on a street frontage site within the settlement of Tullyhogue. The existing dwelling located at the front of the site is within an area of townscape character. The site is enclosed by a 1.5m high trimmed hedgerow to the rear of the public footpath and extending along both the northern and southern boundaries. There is a small field to the rear of the dwelling, which rises up gently towards the eastern boundary which is defined by a hedgerow with mature trees.</p> <p>The site backs onto O'Neill Park to the south, which is a Public Authority housing development of two storey terraced dwellings. To the north of the site is an agricultural merchants business which supplies animal feeds and fertilisers. The site sits approximately 3-4m above the agricultural merchants yard which has a large shed extending along the boundary with 2 large meal silos at the eastern gable end.</p>	
<p>Description of Proposal</p> <p>This is an outline application for a proposed site for housing development. A concept plan has been submitted and indicates a total of five dwellings. One detached dwelling is located at the Main Street frontage, facing onto the public road, with two pairs of semi-detached dwellings located further back on the site. A single access road extends along the northern boundary, next to the Hewitt's farm feeds business, to a turning head with four semi-detached dwellings at the end. These four dwellings back onto the public housing development of O'Neill Park.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p><u>Policy Consideration</u></p> <p>Planning History There is no previous planning history on the application site.</p> <p>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</p>	

weight.

The proposal is in accordance with the Cookstown Area Plan 2010 insofar as the site lies within the settlement development limit of Tullyhogue. The dwelling at the front of the site is located within an area of townscape character whilst the remainder of the site has no specific designation and is considered to be whiteland.

The main policy consideration in the assessment of this planning application are :-
SPPS - Strategic Planning Policy Statement for NI
PPS 7 Quality Residential Environments
PPS 3 - Access, Movement and Parking
PPS 4 - Planning and Economic Development

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

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

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.

As this is an outline application the concept plan is being treated as a proposed block plan and is therefore being assessed against these criteria as follows:-

- (a) The proposal meets the first of these criteria in that it respects the surrounding context in terms of layout as the density of the proposed site is for 5 dwellings on a site of 0.26 ha giving a density of 19.2 dwelling per hectare. This density sits comfortably within the surrounding developments which range from 10.5 dwellings per hectare at Kings Park, to 26.7 dwellings per hectare at Berkely Mews with O'Neill Park having a higher density of 36.3 dwelling per hectare.
- (b) There are no 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;
- (c) This layout shows a notional layout for 5 dwellings, therefore there is no requirement for the provision of public open space. This arrangement has the potential to provide for all dwellings to have adequate private amenity space.
- (d) As the site is close to and within walking distance of the centre of Tullyhogue, the provision of neighbourhood facilities are not deemed necessary within the site;
- (e) The site has good access onto the Main Street and 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 provision can be made for all sites to have in-curtilage parking.

(g) As this is an outline application, the design of the development in terms of form, materials and detailing has not been considered in detail. However, this can be conditioned and considered at Reserved Matters stage.

(h) Given the existing surrounding land uses, and in particular the animal feeds merchants yard located immediately to the north of the proposed site, the proposal has the potential to create a conflict with adjacent land uses. Environmental Health highlighted concerns regarding noise from the nearby agricultural merchants on the proposed development. The applicant duly submitted a noise impact assessment, however, this only served to reinforce Environmental Health's concerns about the suitability of the proposed development. Environmental Health advised that should the proposed development receive planning approval, and a justified noise complaint be received by a future occupant, EHD would have to consider enforcement action for statutory nuisance under Clean Neighbourhoods and Environmental Act (NI) 2011. EHD concluded that due to these concerns it is their opinion that the proposed development is an incompatible land use for this location.

(i) Generally the layout can be designed to deter crime and to ensure there are no areas which are unsupervised or not overlooked.

PPS 4 - Planning and Economic Development: Policy PED 8 Development incompatible with Economic Development Uses states that 'A proposal for development in the vicinity of an existing or approved economic development use that would be incompatible with this use or that would prejudice its future operation will be refused'.

As there is the potential, as advised by EHD, that the existing animal feed merchants business may give rise to noise complaints from the occupiers of the new dwellings, which may result in enforcement action being taken against that business, the proposed development is deemed incompatible with the existing economic use and is therefore contrary to policy.

Consultee responses

Dfl Roads advised that following the submission of amendments, that they have no objections.

NIW advised that there are network capacity issues as the receiving foul sewerage network has reached capacity. This issue can be dealt with by use of a negative condition restricting any development until a method of satisfactorily dealing with the sewage has been submitted and agreed with Council in association with NIW.

As detailed above, Environmental Health have advised that the site is located immediately adjacent to an animal feed merchants business. The acoustic consultant has compared the noise level at existing dwellings within the vicinity of this proposal and with that of future dwellings within this proposed development. The consultancy have also given consideration to current noise complaint levels within the area. Environmental Health Department would comment that this does not give guarantees that future complaints will not be received nor mitigate the level of noise predicted at this proposed development.

Based on the information available and the noise levels predicted, EHD continue to have

concerns about the suitability of this proposal. Should the proposed development receive planning approval and a justified complaint be received by a future occupant, with the noise levels predicted in the Noise Impact Assessment, Environmental Health would have to consider enforcement action for statutory nuisance under Clean Neighbourhoods and Environmental Act (NI) 2011. EHD would conclude that due to these concerns we feel this proposal is an incompatible land use for this location.

Recommendation

On consideration of the above, it is my opinion that planning permission should be refused for the following reasons:-

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy QD1 of Planning Policy Statement 7 Quality Residential Environments in that the development as proposed fails to provide a quality residential environment by reason of creating a conflict with an adjacent land use where the proposed dwellings may suffer from noise nuisance.

Reason 2

The proposal is contrary to Policy PED 8 of Planning Policy Statement 4 Planning and Economic Development in that the development as proposed is considered to be incompatible with the adjacent economic use and which may prejudice its future operation, by way of noise complaints.

Case Officer: Malachy McCrystal

Date: 25 May 2023

ANNEX	
Date Valid	23 September 2021
Date First Advertised	5 October 2021
Date Last Advertised	5 October 2021
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 28 Main Street Tullyhogue Cookstown Tyrone BT80 8UA The Owner / Occupier 14 O'Neill Park, Tullyhogue, Cookstown, Tyrone, BT80 8UE The Owner / Occupier 3 Berkley Square Tullyhogue Cookstown Tyrone BT80 8UD The Owner / Occupier 2 Berkley Square Cookstown Tyrone BT80 8UD The Owner / Occupier 54 O'Neill Park Tullyhogue Cookstown Tyrone BT80 8UE The Owner / Occupier 4 Berkley Square Tullyhogue Cookstown Tyrone BT80 8UD The Owner / Occupier 36 O'Neill Park, Tullyhogue, Cookstown, Tyrone, BT80 8UE</p>	
Date of Last Neighbour Notification	13 January 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
Summary of Consultee Responses	
<p>DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC NI Water - Multiple Units West-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBC Environmental Health Mid Ulster Council- Environmental Health Mid Ulster Council-Planning response (2).pdf DFI Roads - Enniskillen Office-Roads Consultation outline approval.docxRS1 Form a (1).doc Environmental Health Mid Ulster Council-Planning response (3).pdf</p>	

Drawing Numbers and Title

Road Access Plan Plan Ref: 04
Site Appraisal or Analysis Plan Ref: 02
Housing Concept Plan Plan Ref: 03
Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1359/O Recommendation: Approve	Target Date: 22 December 2022
Proposal: Site for a dwelling and domestic garage	Location: Approx 105M North West Of No 25 Brackagh Road, Desertmartin
Applicant Name and Address: Mr Seamus Diamond No 25 Brackagh Road Desertmartin BT45 5NS	Agent Name and Address: Mr Brendan Monaghan 38B Airfield Road The Creagh Toomebridge BT41 3SG
Summary of Issues: This application was first before Members at October 2023 Planning Committee with a recommendation to refuse under policies CTY 1, CTY 8 and CTY 14 of PPS 21. It was considered that the proposal didn't represent a gap site within a substantial and built up road frontage and that if developed, it would result in an unacceptable build up. Members agreed to defer the application for an office meeting which was facilitated on the 12 th October 2023. Since the office meeting I have carried out a site inspection and I am now recommending that the application be approved. Justification for this is provided further in this report.	
Summary of Consultee Responses: As part of the initial case officer assessment, DFI Roads were consulted, and had no objection, subject to standard conditions and informatives. They proposed a shared access laneway. NI Water were consulted, and had no objection, subject to standard conditions. No new consultations were issued to inform this deferred consideration.	
Description of Proposal This is an outline application for a proposed site for a dwelling and domestic garage. The conceptual layout shows how the overall gap can accommodate 2 dwellings, the Southern dwelling being the application site. Missing from the concept is an existing dwelling immediately	

East of number 25.



Deferred Consideration:

The contention with this application is the size of the gap as well as the impact on rural character from build-up if a dwelling were to be approved in this location. On plan, there is a gap of approximately 142m between number 25 and the dwelling at number 23. The plot frontage of number 25 is approximately 62m and 40m at number 23. Whilst on plan, the width of the gap would lend itself to possibly accommodating 3 dwellings based on plot size however the situation is different on the ground. This is because of 2 factors. The topography of the host field is such that it rises quite steeply from the Southern boundary, in a northern direction towards number 23. This actually reads as a much shorter gap with more visual appreciation of both properties at number 23 and number 25 when standing at the site. It is my opinion that the gap on the ground does not provide relief or a visual break between existing development that would be considered so important to protect the rural character in this location. Furthermore, given the topography it would prove very difficult to accommodate 3 dwellings in this field all fronting onto the lane. For these reasons I am of the opinion that the size of the gap can be considered acceptable for 2 dwellings along a substantial and built up frontage on this laneway. This would

take in number 25 and its associated outbuilding and number 23 and its outbuildings.

It was initially considered that this proposal would result in a detrimental change to the rural character of the countryside, in that the dwelling would result in a suburban style build-up of development when viewed with existing and approved buildings. Having visited this site I can confirm that the immediate area around the site has lost rural character due to the existing development. Along the laneway there are a total of 9 buildings. There are also several large sheds and 3 dwellings to the South and South East of the laneway. Due to the winding nature of the public road and the undulating topography of the area, all this development reads together. I would therefore disagree that development of this site would result in such a build up that would merit refusal of the application.

At the deferred office meeting it was suggested that an alternative site be explored to the SE of the application site. These lands to the SE would not be suitable for development due to their topography. They fall quite steeply in a valley like effect towards a small water course.

I recommend that this application be approved subject to a siting condition which would ensure a dwelling would not protrude into the host field and would ensure it reflects the pattern of development along the laneway (see yellow shaded area on the site location plan above). I would also attach conditions in respect of levels, landscaping, retention of existing boundaries and a 6.5m ridge height.

Conditions/Reasons for Refusal:

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

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 available to view on Public Access

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

Condition 4

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level

Reason: To ensure that the development satisfactorily integrates.

Condition 5

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. Development shall be carried out in accordance with the approved levels

Reason: To ensure the dwelling integrates into the landform.

Condition 6

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity

Condition 7

The proposed dwelling shall be sited in the area shaded yellow on drawing number 01 uploaded on public access on 13th September 2022

Reason: To ensure that the dwelling consolidates with adjacent development

Condition 8

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

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

Condition 9

The existing natural screenings of the site shall be permanently retained at a height not less than 2m unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

Signature(s):Karla McKinless

Date: 26 March 2024

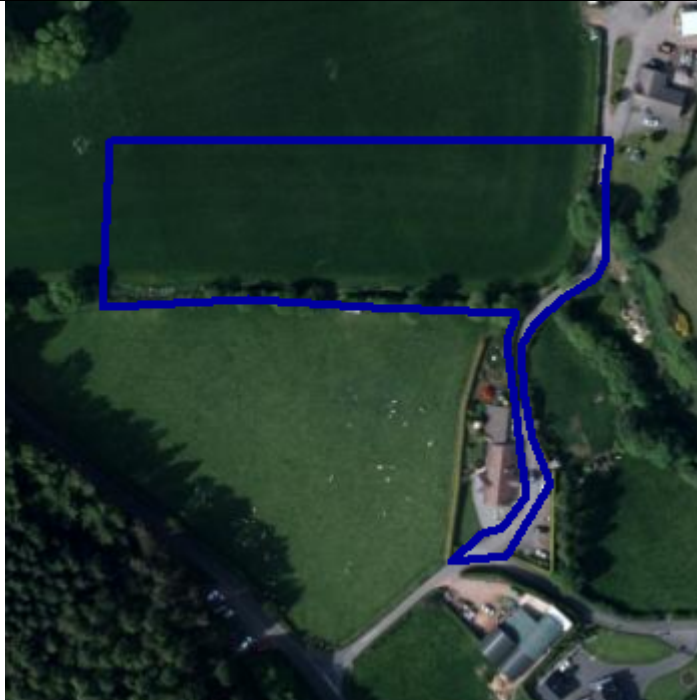


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 3 October 2023	Item Number: 5.5
Application ID: LA09/2022/1359/O	Target Date: 22 December 2022
Proposal: PROPOSED SITE FOR A DWELLING & DOMESTIC GARAGE	Location: Approx 105M North West Of No 25 Brackagh Road, Desertmartin
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr SEAMUS DIAMOND No 25 BRACKAGH ROAD DESERTMARTIN BT45 5NS	Agent Name and Address: Mr BRENDAN MONAGHAN 38B AIRFIELD ROAD THE CREAGH TOOMEBRIDGE BT41 3SG
Executive Summary: <p>The current application for a proposed dwelling and garage is presented as a refusal as it fails to meet Policy CTY 1, CTY 8 and CTY 14 of PPS 21.</p> <p>CTY 1 – This proposal fails to meet Policy CTY1 of PPS 21 in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>CTY 8 – This proposal fails to meet Policy CTY 8 of PPS 21 as the site cannot be considered a small gap site, and could potentially accommodate up to a maximum of three houses. Development of this site would be considered as ribbon development and would be detrimental to the character, appearance, and amenity of the countryside.</p> <p>CTY 14 – This proposal fails to meet Policy CTY 14 of PPS 21. If permitted a dwelling would appear as a prominent feature in the landscape and would likely cause a detrimental change to and further erode the rural character of the area.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-1359-O.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 site is located approximately 105m Northwest of No. 25 Brackagh Road, within the open countryside, outside any defined settlement limits as per the Magherafelt Area Plan 2015. The application site is rectangular in shape, and part of a much larger agricultural

field. The site is a roadside site and will be accessed from Brackagh Road. The roadside boundary and southern boundary are defined by mature vegetation, and as this proposal site is part of a much larger agricultural field the two remaining boundaries remain undefined. The surrounding area is rural in nature, with scattered dwellings and their associated outbuildings.

Description of Proposal

This is an outline application for a proposed site for a dwelling and domestic garage at approximately 105m Northwest of No. 25 Brackagh Road, Desertmartin.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Representations

Four neighbour notifications were issued, and no representations were received in connection with this application.

Relevant Planning History

No relevant planning history on this site.

Planning Assessment of Policy and Other Material Considerations

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1: General Principles

PPS 3: Access, Movement and Parking

PPS 21: Sustainable Development in the Countryside

CTY 1 – Development in the Countryside

CTY 8 – Ribbon Development

CTY 13 – Integration and Design of Buildings in the Countryside

CTY 14 – Rural Character

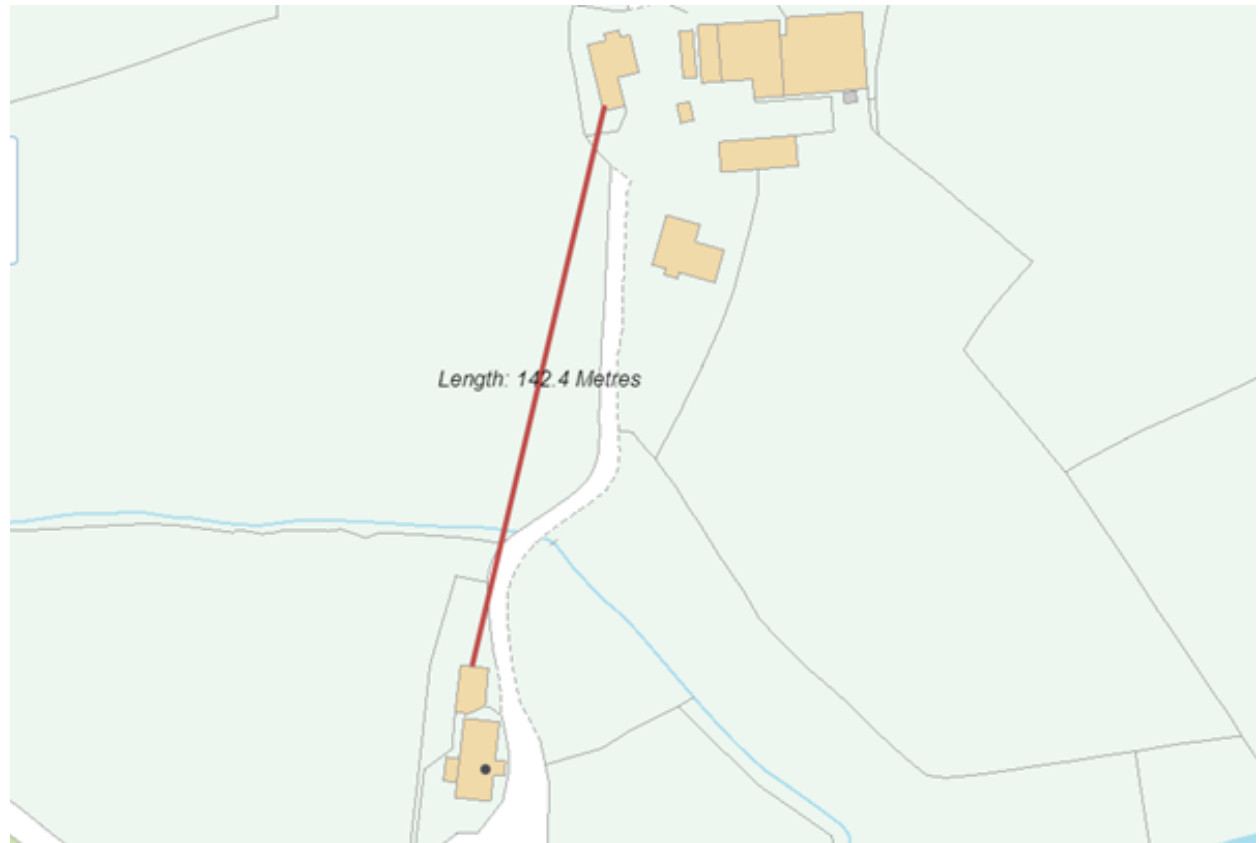
Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in 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 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.

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 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 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. Between the outbuilding at No. 25 Brackagh Road and the dwelling No. 23 Brackagh Road there is a gap of approximately 142 metres, and approximately 115 metres when measuring from plot to plot. The plot of frontage of No. 25 is approximately 62m, and the plot size of No. 23 is approximately 40m. It is quite clear that this gap could

accommodate three or more houses. Therefore, I am of the opinion, this proposal fails to meet Policy CTY 8 of PPS 21.



Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape, and it is of an appropriate design. 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.

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.

Summary of Recommendation:

Refuse is recommended

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

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21: Sustainable Development in the Countryside in that the proposal does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage.

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 dwelling would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings.

Signature(s): Seáinín Mhic Íomhair

Date: 12 September 2023

ANNEX	
Date Valid	8 September 2022
Date First Advertised	20 September 2022
Date Last Advertised	20 September 2022
Details of Neighbour Notification (all addresses) The Owner / Occupier 25 Brackagh Road Desertmartin Londonderry BT45 5NS The Owner / Occupier 23A Brackagh Road Desertmartin Londonderry BT45 5NS The Owner / Occupier 21 Brackagh Road Desertmartin Londonderry BT45 5NS The Owner / Occupier 23 Brackagh Road Desertmartin Londonderry BT45 5NS	
Date of Last Neighbour Notification	29 November 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u> Ref: LA09/2022/1359/O Proposals: PROPOSED SITE FOR A DWELLING & DOMESTIC GARAGE Decision: Decision Date: Ref: LA09/2021/0389/F Proposals: Proposed detached residential dwelling & detached garage. Decision: PG Decision Date: 03-DEC-21 Ref: H/1996/0251 Proposals: DWELLING Decision: PG Decision Date: Ref: H/1995/0497 Proposals: SITE OF DWELLING Decision: PG	

Decision Date:

Ref: H/1987/0299

Proposals: ALTERATIONS & ADDITIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1980/0061

Proposals: HV O/H LINE (BM 3590)

Decision: PG

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-1359-O.pdf

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable

Deferred Consideration Report

Summary	
Case Officer: Karla McKinless	
Application ID: LA09/2022/1736/O Recommendation: Approve	Target Date: 30 March 2023
Proposal: Proposed dwelling and garage	Location: Approx 210M SE of 59 Glengomna Road Draperstown BT45 7JQ
Applicant Name and Address: Sean Donnelly 50 Killowen Drive Magherafelt BT45 6DS	Agent Name and Address: TC Town Planning Unit C12 The Business Centre 80-82 Rainey Street Magherafelt BT45 5AJ
Summary of Issues: This application was first before Members at June 2023 Planning Committee. It was recommended for refusal as the applicant had not satisfactorily demonstrated that he had a special circumstances case for a dwelling under Policy CTY 6 of PPS 21. Members agreed to defer the application for an office meeting, which was facilitated. The applicant has now put forward a farm case which he wants considered alongside his special circumstances case. The application is now being recommended for approval and my justification for this is detailed further in this report.	
Summary of Consultee Responses: As part of this deferred consideration consultation has been carried out with DAERA who have advised that the farm business ID was allocated in 1992 and the farmer, Mr Joe Donnelly, has claimed payments.	
Description of Proposal This is an outline application for a proposed dwelling and garage.	

Deferred Consideration:

This outline application was initially assessed under Policy CTY 6 of PPS 21. Under that assessment the special personal circumstances put forward by the applicant and supported by appropriate medical evidence was accepted, however it was the site specific justification for a dwelling at this location along with the genuine hardship test which were contested. As such, it was determined that a new dwelling was not a necessary response to the particular circumstances of the case. At the deferred office meeting the merits of a CTY 6 case were further explored but was agreed that the case was weak and there remained to be policy concerns.

The applicant was therefore provided the opportunity to make a farm case under CTY 10 of PPS 21. Subsequently farms maps and a P1C form were submitted and DAERA were consulted. The P1C provided the farm details of the applicant's brother Joe Donnelly, who has a farm at 103 Bancran Road, which is approximately 1km from the application site as the crow flies. DAERA have confirmed that the farm business ID was allocated on the 3/2/1992, so the farm can be considered established for the required 6 year period. They also confirmed that payments have been claimed in the last 6 years and so the farm can be considered active for the purpose of the policy test. It is noted that approval was granted on the 14/11/2019 for a replacement dwelling (LA09/2018/1149/F) on the farm holding for Mr Christopher Donnelly, the applicant's nephew and Joe Donnelly's son. This development opportunity was transferred to Christopher within 10 years of the replacement approval. The applicant has however advised that Christopher Donnelly, although not named on the farm business, is both actively and financially involved in the farm business. Livestock receipts have been provided which show a financial investment by Christopher Donnelly in the farm business and he has confirmed that this livestock owned by him is kept and housed on this farm. It is argued that for these reasons the replacement opportunity hasn't been sold off/transferred to a third party and it remains within the family and is occupied by someone who is actively involved in the farm business. It is my opinion, that given the evidence provided, this aspect of the policy test is not offended to such a degree that it would merit a recommendation for refusal. No other farm dwelling has been approved using this farm business ID in the last 10 years.

CTY 10 also required a new dwelling to be visually lined or sited to cluster with an established group of buildings on the farm. There are exceptions for an alternative siting if demonstrable health and safety reasons are provided or if there are verifiable plans to expand the farm. This site is not sited to cluster nor would a dwelling visually link with the farm buildings at 103 Bancran Road. The applicant has made an exception case which they want considered in conjunction with their CTY 6 case. They have advised that the applicant's medical condition, which is backed up with verifiable documentation, lends itself to residing in an area which will afford him long term serenity, quietness, privacy and security in the interests of his long term health, whilst being in closer proximity to family members for added support. It is also argued that any other sites close to the farm buildings at 103 Bancran Road are elevated, prominent and too difficult to build on. At the office meeting a planning application beside 103 Bancran Road was referenced (LA09/2017/0422/O) which permitted a revised siting as a result of topographical conditions in that particular area. Having taken account of these material considerations I would accept the applicant's case for an alternative siting away from the farm at 103 Bancran Road.

The proposed application site is a roadside site, with the roadside boundary defined by a

relatively low level hedgerow. The site rises gently from the road in a NW direction. The SW boundary is undefined on the ground and the remaining boundaries are defined by semi mature hedgerow. A single story dwelling with a maximum ridge height of 5.5m from FFL and a siting condition in the NE section of the site would ensure that the dwelling would not appear overly prominent in the local landscape. It will also be necessary to attach an occupancy condition as directed by policy CTY 6.

The site is located close to a large enclosure and bullaun stone, which is a monument of local importance. Historic Monuments Division of HED have been consulted and have considered the proposal against PPS 6 archaeological policy requirements. They have provided comments in respect of design, siting and planting, all of which will be matters reserved. Any reserved matters application will require consultation with HED. They have also suggested conditions in respect of archaeological works, which I would recommend be attached to any positive decision that Members make.

Approval is recommended.

Conditions/Reasons for Refusal:

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

The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level

Reason: To ensure that the development satisfactorily integrates.

Condition 4

The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity

Condition 5

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. Development shall be carried out in accordance with the approved levels

Reason: To ensure the dwelling integrates into the landform.

Condition 6

The proposed dwelling shall be sited in the area shaded green on drawing 01 uploaded on Public Access on 15th December 2022

Reason: To ensure that the development is satisfactorily integrated into the landscape.

Condition 7

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 available to view on Public Access, including visibility splay of 2.4m x 60m in each direction and a forward sight distance of 60m prior to commencement of development.

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

Condition 8

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 9

No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition number 8.

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

Condition 10

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 number 8. 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.

Condition11

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

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

Condition12

The existing natural screenings of the site shall be permanently retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

Condition13

The dwelling hereby approved shall only be occupied by Mr Sean Donnelly and any of his dependents.

Reason: The dwelling is granted in part on the basis of his personal and domestic circumstances in line with the provisions of Policy CTY 6 of PPS 21.

Signature(s):Karla McKinless

Date: 21 March 2024

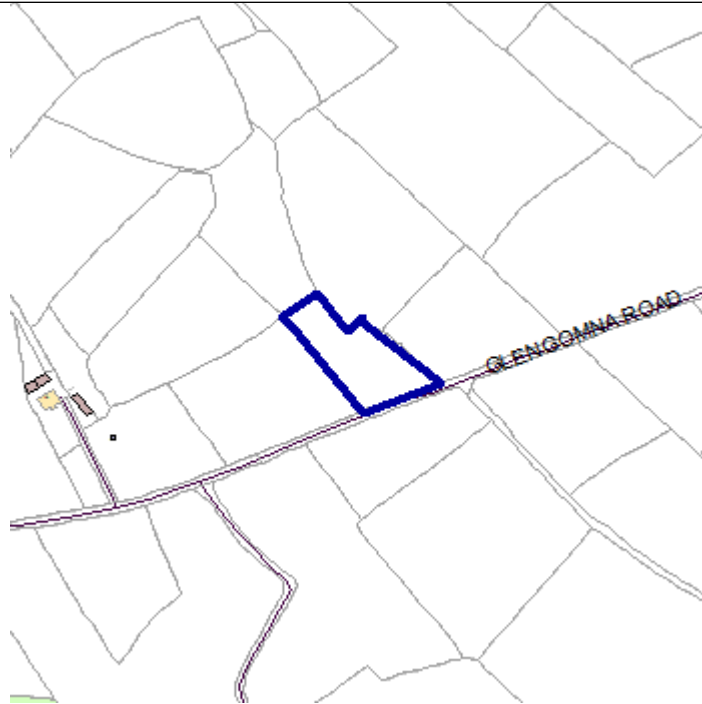


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 12 June 2023	Item Number: 5.34
Application ID: LA09/2022/1736/O	Target Date: 30 March 2023
Proposal: Proposed dwelling and garage	Location: Approx 210M SE of 59 Glengomna Road Draperstown BT45 7JQ
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Sean Donnelly 50 Killowen Drive Magherafelt BT45 6DS	Agent Name and Address: TC Town Planning Unit C12 The Business Centre 80-82 Rainey Street Magherafelt BT45 5AJ
Executive Summary: The proposed is for an outline dwelling and garage under Policy CTY 6 - Personal and Domestic Circumstances. With due sympathy to the circumstances of the case, It is recommended that the proposed be refused for the following reason: It is deemed that there is insufficient evidence to suggest that a new dwelling at the proposed site is a necessary response to the particular circumstances of the case. The supporting statement would indicate that care can still be provided at the applicant's current address. It has been agreed that the proposed does not comply with Policy CTY 6 of PPS 21. It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage.	

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)	

Representations:

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

Summary of Issues

Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately

2.3 miles west and outside of the Draperstown settlement limit as defined in the Magherafelt Area Plan 2015. The red-lined site area is 0.36 hectares and encompasses the eastern section of a larger field which is also under the ownership of the applicant. The site occupies a roadside position, with the proposed access via the Glengomna Road. The site is surrounded by agricultural fields on all sides, with the existing boundaries along the northern, eastern and southern sections of the site marked by mature hedgerow with some scatterings of trees. The western red line boundary is unmarked. The site slopes gently up from the road. The wider rural environment consists mostly of agricultural fields, with a low and dispersed pattern of dwellings.

Description of Proposal

This is an outline application for a proposed dwelling and garage. The application is submitted with a supporting statement for a dwelling under Policy CTY 6 - Personal and Domestic Circumstances of the PPS 21.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so 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 site of the proposed development is located in the rural countryside approximately 2.3 miles west and outside of the Draperstown settlement limit as defined in the Magherafelt Area Plan 2015. The site falls within the Sperrins AONB.

Relevant Histories

None

Representations

No third party representation 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 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: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling in the countryside for personal and domestic circumstances. This application is therefore assessed under Policy CTY 6 of PPS 21.

Policy CTY 6 of PPS 21 provides that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met:

- a) The applicant can provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.
- b) There are no alternative solutions to meet the particular circumstances of the case, such as: an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

With regard to part A, It is accepted that the special personal circumstances of the applicant supported by the appropriate medical evidence has been provided in the statement of case. Details of the level of care required in relation to the medical conditions pertaining to the applicant is also provided, including the identity of the carers. However, an explanation that is sufficient enough as to why care can only be provided at the proposed site location and how genuine hardship would be caused if planning permission were refused is not forthcoming. The supporting statement would indicate that care can still be provided at the applicant's current address at Killowen Drive. The supporting statement only provides a case that the proposed site location on the Glengomna Road close to the brother's farm would be beneficial both for the applicant and the applicant's brother and sister-in-law. This is not what the policy asks. Rather, the policy asks that such sites be a necessary response to the particular circumstances with

an explanation as to why care can only be provided at this location.

With regard to part B, the supporting statement provides that some alternative solutions have been explored. The applicant had lived with his partner in Moneymore though due to his medical conditions could not settle. Consideration was given to living within the brother's farm cluster though it was deemed that this would still cause issues pertaining to the applicant's hyper-sensitivity to noise as detailed in the medical evidence. It does not appear that long-term rental opportunities have been explored by the applicant / carers.

Having assessed the statement of case with the senior planner it has been agreed that the proposed outline dwelling fails to meet Policy CTY 6 of PPS 21.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. The site is complete with long-established natural boundaries in the form of hedgerow with a decent backdrop of scatterings of trees along the northern boundary. It is therefore a site that would not rely primarily on the use of new landscaping. I am content that ancillary works and any future dwelling at the site could be designed in such a way as to integrate with the surrounding locality. The proposed complies with Policy CTY 13 at this outline stage.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. The proposed complies with Policy CTY 14 at this outline stage.

Planning Policy Statement 2 – Natural Heritage

Policy NH 6 of PPS 2 provides guidance on proposals sited within Areas of Outstanding Natural Beauty. The policy provides that planning permission for new development within an Area of Outstanding Natural Beauty will only be granted where it is of an appropriate design, size and scale for the locality. I am content that the siting of the proposal utilizes the corner of a field and is sympathetic to the surrounding locality. This is an outline application, though any future reserved matters proposal at this site should be to a scale and design that is in keeping and sympathetic with the surrounding rural beauty by exhibiting local architectural styles, local materials, design and colours. The proposal complies with Policy NH 6 of PPS 2 at this outline stage.

Planning Policy Statement 3 – Access, Movement and Parking

The proposed outline involves the creation of a new access onto a public road. DfI Roads were consulted and, in their response, stated they have no objection subject to a condition. The proposal complies with Policy NH 6 of PPS 2 at this outline stage.

Recommendation

With due sympathy to the circumstances of this case, it is noted that the proposed fails to comply with Policy CTY 6 of PPS 21. It is therefore recommended that this application be refused.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 6 of PPS 21 in that satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case has not been provided.

Signature(s): Benjamin Porter

Date: 16 May 2023

ANNEX	
Date Valid	15 December 2022
Date First Advertised	3 January 2023
Date Last Advertised	3 January 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 57 Glengomna Road Draperstown Londonderry BT45 7JQ The Owner / Occupier 59 Glengomna Road Draperstown Londonderry BT45 7JQ	
Date of Last Neighbour Notification	22 December 2022
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: H/2003/1468/F Proposals: Proposed replacement dwelling. Decision: PG Decision Date: 11-OCT-04</p> <p>Ref: H/1982/0110 Proposals: ALTERATIONS AND ADDITIONS TO HOUSE Decision: PG Decision Date:</p> <p>Ref: H/1983/0342 Proposals: BUNGALOW Decision: PG Decision Date:</p> <p>Ref: LA09/2015/0510/O Proposals: Proposed off site replacement chalet dwelling (offset due to lack of site curtilage and adjacent right of ways inhabits in-situ development) Decision: PG Decision Date: 01-DEC-15</p> <p>Ref: LA09/2018/0567/RM</p>	

Proposals:

Off site replacement dwelling with a detached domestic garage

Decision: PG

Decision Date: 16-AUG-18

Ref: LA09/2018/1631/F

Proposals: Variation of condition No.3 , Retention of existing dwelling as a domestic store (Amended Description)

Decision: PG

Decision Date: 19-FEB-19

Ref: LA09/2021/1045/F

Proposals: Proposed sheep house / machinery store and domestic garage

Decision:

Decision Date:

Ref: H/2004/0538/O

Proposals: Site of dwelling and garage.

Decision: PR

Decision Date: 24-NOV-05

Ref: H/2004/0534/O

Proposals: Site of dwelling and garage.

Decision:

Decision Date:

Ref: H/1978/0474

Proposals: HV O/H LINE

Decision: PG

Decision Date:

Ref: H/2010/0304/O

Proposals: Site of proposed dwelling and garage on a farm for residential purposes

Decision: PG

Decision Date: 28-SEP-10

Ref: H/1991/0158

Proposals: SITE OF DWELLING

Decision: WITHDR

Decision Date:

Ref: LA09/2022/1736/O

Proposals: Proposed dwelling and garage

Decision:

Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-Outline resp.docx
Historic Environment Division (HED)-
Historic Environment Division (HED)-

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Notification to Department (if relevant)

Not Applicable



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2023/0005/F	Target Date: 18 April 2023
Proposal: Proposed dwelling and detached domestic garage	Location: Approx 55M NE of 72 Finulagh Road Dungannon BT70 3DB
Applicant Name and Address: Michael Doran 72 Finulagh Road Galbally BT70 3DB	Agent Name and Address: Donnelly Design Services 8 Devesky Road Carrickmore Omagh BT79 9BU
Summary of Issues:	
Summary of Consultee Responses: DFI Roads - sight lines of 2.4m x 45.0m and 45.0m forward sight lines to be provided as detailed DEARA – active and established farm business	
Characteristics of the Site and Area: The site is located within the open countryside outside any settlement designated by the Dungannon and South Tyrone Area Plan 2010. It sits adjacent the Finulagh Road approx. 2.3km northeast of Castlecaulfeild.	



Fig 1: Site outlined red

The site is a relatively large rectangular shaped plot comprising the roadside frontage and southern half of a large agricultural field; and a lane that runs along the southeast boundary of the field to serve the applicant's farm holding at no. 72 Finulagh Road. The farm holding, which comprises a modest single storey dwelling (applicant's address) bound primarily to its northeast side by a number of outbuildings and sheds, bounds the site to the southwest. A mix of post and wire fencing and low hedging bounds the roadside frontage of the site and both sides of the lane bounding the site to the southeast. The northwest boundary of the site is undefined onto the host field.

The immediate area surrounding the site is typically rural in character comprising undulating agricultural landscape interspersed by detached dwellings of single storey appearance, ancillary dwellings, and farm groups. The landform within the immediate vicinity generally rises upwards quite steeply from the Finulagh Road from east to west through the site up to the applicants farm group which alongside the most western part of the site occupies an elevated position in the surrounding landscape.



Fig 2: View of site from Finulagh Road on southeast approach to its access off the Finulagh Road.



Fig 3: View of site from Finulagh Road on southeast approach to its access off the Finulagh Road.



Fig 4: View of site from Finulagh Road on southeast approach to its access off the Finulagh Road.

Critical views of the site exist from the Finulagh Road on the west / northwest approach when passing along the frontage of the host field; from the Finulagh Road over a longer distance on the southeast approach to the site access; and from the elevated Annaghmakeown Road located to the northeast.

Description of Proposal

This is a full planning application for a dwelling and detached domestic garage on a farm. The site is located approx. 55m NE of 72 Finulagh Road Dungannon.

Deferred Consideration:

This application was before the Planning Committee in January 2024 where it was deferred for consideration of amended plans. The amended plans reduced the front projection to single storey, provided sections to demonstrate the proposed dwelling will site below the existing agricultural buildings and provided a landscaping scheme and levels for the proposed development.

Members are advised this application has been considered as a dwelling on a farm and the proposed dwelling is acceptable under Policy CTY10 as the dwelling is sited to cluster with existing buildings on an active and established farm and there are no sites or development opportunities sold of the farm. The proposed dwelling must also meet with the policies in CTY13 and CTY14 to ensure the development is satisfactorily integrated

into the landscape and will not be a prominent development. The amended plans provided illustrate the proposed dwelling is located lower than the existing mono-pitched roof farm buildings. Viewed from the east I am of the opinion the proposed dwelling will be well integrated with the existing group as a backdrop. Views from the north are filtered by an existing mature hedge that can be conditioned to be retained. The critical view, in my opinion is on approach from the south east (Fig 2 above). The proposal now shows the dwelling will be located below the farm buildings and with the backdrop of the mature trees.

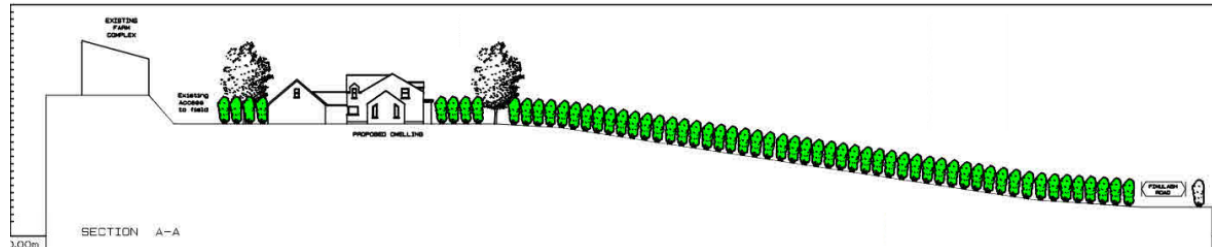


Fig 5 – indicative section showing the house on site.

Members are advised that CTY10 only requires the existing access to be used where practicable. It is proposed to create a new lane running parallel to the existing lane. I consider this will be acceptable as the existing lane is narrow and would require the removal of the existing vegetation to widen it to access the proposed dwelling. Retaining the existing vegetation and planting a new hedge will, in my opinion, ensure the new lane is not a prominent feature in the landscape.

I consider the revised plans address the concerns in relation to the dwellings integration on this site and recommend this application is approved with the conditions attached.

Conditions:

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

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

2. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 45.0m and a 45.0m forward sight line shall be provided in accordance with the details as set out on drawing No 02 Rev 4 received 09 JAN 2024. 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.

3. The gradient of the access shall not exceed 8% (1 in 12.5) over the first 5m 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.

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

Reason: To ensure waiting vehicles do not encroach onto the carriage

5. The existing hedgerow and vegetation along all the boundaries of the site identified in red and along all the boundaries of the field in which the site is situated as shown on Location Plan 1:2500 on drawing No 02 Rev 4 received 09 JAN 2024 shall be retained in perpetuity, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To ensure the maintenance of screening to the site.

6. All hard and soft landscape works as detailed on drawing no 02 Rev 4 received 09 JAN 2024 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. 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: To ensure the provision of a high standard of landscape in the interest of rural character and biodiversity..

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 9 January 2024	Item Number: 5.5
Application ID: LA09/2023/0005/F	Target Date: 18 April 2023
Proposal: Proposed dwelling and detached domestic garage	Location: Approx 55M NE of 72 Finulagh Road Dungannon BT70 3DB
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Michael Doran 72 Finulagh Road Galbally BT70 3DB	Agent Name and Address: Donnelly Design Services 8 Devesky Road Carrickmore Omagh BT79 9BU
Executive Summary:	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	24-02-2023.docx
Non Statutory Consultee	DAERA - Omagh	LA09-2023-0005-F.docx
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc Roads Consultation - Full response.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

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ACKN

The site is located within the open countryside outside any settlement designated by the Dungannon and South Tyrone Area Plan 2010. It sits adjacent the Finulagh Road approx. 2.3km northeast of Castlecaulfeild.



Fig 1: Site outlined red

The site is a relatively large rectangular shaped plot comprising the roadside frontage and southern half of a large agricultural field; and a lane that runs along the southeast boundary of the field to serve the applicant's farm holding at no. 72 Finulagh Road. The farm holding, which comprises a modest single storey dwelling (applicant's address) bound primarily to its northeast side by a number of outbuildings and sheds, bounds the site to the southwest. A mix of post and wire fencing and low hedging bounds the roadside frontage of the site and both sides of the lane bounding the site to the southeast. The northwest boundary of the site is undefined onto the host field.

The immediate area surrounding the site is typically rural in character comprising undulating agricultural landscape interspersed by detached dwellings of single storey appearance, ancillary dwellings, and farm groups. The landform within the immediate vicinity generally rises upwards quite steeply from the Finulagh Road from east to west through the site up to the applicants farm group which alongside the most western part of the site occupies an elevated position in the surrounding landscape.



Fig 2: View of site from Finulagh Road on southeast approach to its access off the Finulagh Road.



Fig 3: View of site from Finulagh Road on southeast approach to its access off the Finulagh Road.



Fig 4: View of site from Finulagh Road on southeast approach to its access off the Finulagh Road.

Critical views of the site exist from the Finulagh Road on the west / northwest approach when passing along the frontage of the host field; from the Finulagh Road over a longer distance on the southeast approach to the site access; and from the elevated Annaghmakeown Road located to the northeast.

Description of Proposal

This is a full planning application for a dwelling and detached domestic garage on a farm. The site is located approx. 55m NE of 72 Finulagh Road Dungannon.

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

Development Control Advice Note 15: Vehicular Standards

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.

Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 1 objection was received from Marian Doran on the 14th September 2023 who advised that the dwelling on the applicant's farm holding no. 72 Finulagh Road is mortgaged in my both her and her ex-husband, the applicant's, name. That she objects to the proposal as she has never been told about it owns half of no. 72.

In response to the above objection the agent was contacted via email on the 3rd October 2023 and asked to provide an amended P2 Certificate of ownership notifying all parties in ownership of / with interest in the lands outlined in red under this application. The information required was to be submitted on a without prejudice basis within 14 days

from the date of the date of the email. To date this information has not been received. That said any planning permission granted will not confer title. It will be the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

Relevant Planning History

- M/1976/0313 - Extension and repairs to dwelling - 72 Finulagh Road Castlecaulfield - Granted
- M/1992/4106 - Improvements to dwelling - 72 Finulagh Road Castlecaulfield - Permitted Development
- M/1996/4077 - Alterations to dwelling - 72 Finulagh Road Dungannon - Permitted Development

The above applications relate to the applicant's farm dwelling located on lands immediately southwest of the site.

Consultees

1. DFI Roads were consulted in relation to access, movement and parking arrangements and had no objections to the proposal subject standard conditions and informatives, which will be applied to any subsequent decision notice to comply with the requirements of PPS 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DAERA) were consulted with a P1C Form and Farm maps submitted alongside the application. DAERA confirmed the farm business identified on P1C Forms and Farm maps has been active and established for over 6 years. That it was established in 1991 and has claimed through the Basic Payment Scheme or Agri Environment scheme in each of the last 6 years

Dungannon and South Tyrone Area Plan 2010

The site lies in the rural countryside outside any designated settlement with the Plan.

The Strategic Planning Policy Statement for Northern Ireland (SPPS)

The SPPS advises that the policy provisions relevant to this proposal including Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement (PPS) 21 Sustainable Development in the Countryside

PPS 21 is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 outlines a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development. These include dwellings on farms in accordance with Policy CTY 10 of PPS 21.

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where the following criteria have been met:

1. the farm business is currently active and has been established for at least 6 years,

The applicant has a farm business and as confirmed with the Department of Agriculture, Environment and Rural Affairs (DAERA) this business (identified on P1C Forms and Farm maps submitted alongside application) has been active and established for over 6 years. I am content Criterion (1) of CTY 10 has been met.

2. no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application or since PPS 21 was introduced on 25th November 2008,

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from Mr Doran's farm holding within the last 10 years from the date of the application. I am content Criterion (2) of CTY 10 has been met.

3. the new building is visually linked or sited to cluster with an established group of buildings on the farm.

The new dwelling including garage will be located on agricultural lands immediately northeast of an established group of buildings on the applicant's farm holding at no. 72 Finulagh Road comprising a modest single storey farm dwelling (applicant's address) bound primarily to its northeast side by a number of outbuildings and sheds. I am content the proposed dwelling will visually link with these established buildings on the farm when viewed from the Finulagh Road (see 'Characteristic of the Site and Area' detailing views including Figs 2-4). I am content Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character. CTY 13 outlines permission will only 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 and CTY14 where it does not cause a detrimental change to, or further erode the rural character of an area.

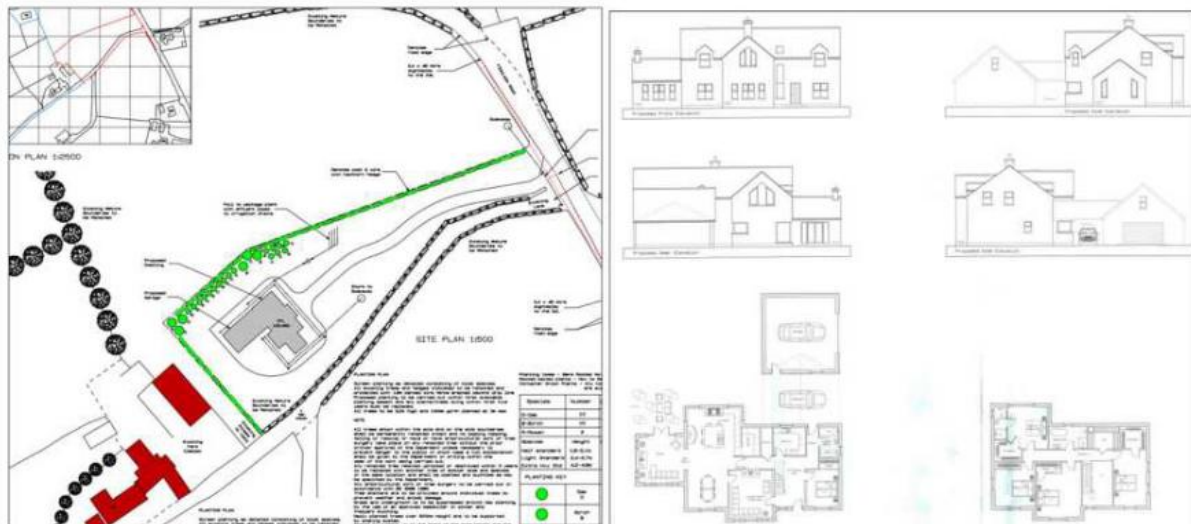


Fig 5 & 6: Proposed site layout; and floor plans and elevations of dwelling including garage, respectively.

APPLICATION NUMBER – LA09/2023/0005/F
ACKN

In this instance I do not believe the site has the capacity to absorb the proposed 1 ¾ storey dwelling including garage submitted in accordance with Policy CTY13 and 14. The size, scale, and design of the dwelling is inappropriate for the site and locality and if permitted would be a prominent feature in the landscape when viewed from the surrounding vantage points (see 'Characteristics of the Site and Area') leading to a detrimental change to the rural character of the area comprising undulating agricultural landscape interspersed by detached dwellings of single storey appearance.

Accordingly, the agent was contacted via email on the 24th March 2023 and advised that Planning considered the large house type unsuitable for this prominent site and offered the applicant the opportunity to submit amended drawings to show the house type reduced to single storey to reduce the visual impact.

The agent subsequently emailed additional information on the 24th April 2023 advising the applicant is set on the design and feels it reflects the elements of dwelling design in the local area. That the site avails of well-established mature boundaries which will be retained and assist with integrating the dwelling. The proposed site is located in front of the existing farm complex consisting of large farm buildings. The agent also advised that having carried out extensive research within the Mid Ulster Council area regarding similar dwellings designs and listed them.

Whilst the additional information as detailed above was taken into consideration Planning opinion had not changed as such the agent was advised of this via phone on the 2nd June 2023 and that every site and proposal is assessed on its individual merits. Accordingly, on the 1st August 2023 the agent was given another opportunity to submit amended drawings to show the house type reduced to single storey to reduce the visual impact. On the 31st August 2023 amended drawings were received to show the dwelling's ridge height reduced by ½ metre (7.5m to 7m) alongside views to show how the dwelling would integrate by availing of the well-established mature boundaries on site and its location to the front of the existing farm complex and buildings.

Again, whilst the additional information as detailed above was taken into consideration Planning opinion had not changed. The agent was advised via email on the 11th September 2023 that Planning still had concerns regarding the large house type on this prominent site and as such offered another opportunity to submit the following information for further consider:

- A section through the site (northeast – southwest) to show the concept of setting the dwelling below the farm group.
- An amended design reflective of simple rural form as this dwelling will be very visible in the landscape.

In addition to the above on the 3rd October 2023 as a result of a P2 Challenge received regarding land ownership (see 'Representations' further below) an amended P2 Certificate of ownership notifying all parties in ownership of / with interest in the lands outlined in red under this application.

The information required above was to be submitted on a without prejudice basis within 14 days from the date of the last email on the 3rd October 2023. To date no further

information has been received therefore as Planning opinion remains unchanged this proposal is recommended for refusal. The design of the dwelling is considered inappropriate for the site and its locality, and if permitted it would be a prominent feature in the landscape leading to a detrimental change to the rural character of the area.

Additional considerations

A suitably designed scheme on this site would not in my opinion have had any unreasonable impact on neighbouring amenity in terms of overlooking or overshadowing given the separation distances that could be retained. Additionally, an agricultural shed running along the outside of the site's rear / southwest boundary intervenes between the site and no. 72 Finulagh Road, the applicant's farm dwelling.

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 there are no built heritage assets or natural heritage features of interest or significance on site.

Flood Maps NI indicate the site is not subject to Flooding.

Recommendation: Refuse

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the dwelling is inappropriate for the site and its locality, and if permitted it would be a prominent feature in the landscape.

Reason 2

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s): Emma Richardson

Date: 21 December 2023

ANNEX	
Date Valid	3 January 2023
Date First Advertised	19 January 2023
Date Last Advertised	19 January 2023
Details of Neighbour Notification (all addresses) The Owner / Occupier 67 Finulagh Road Dungannon Tyrone BT70 3DE The Owner / Occupier 72 Finulagh Road Dungannon Tyrone BT70 3DE	
Date of Last Neighbour Notification	14 September 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: M/1992/4106 Proposals: Improvements to Dwelling Decision: PDNOAP Decision Date:</p> <p>Ref: LA09/2023/0005/F Proposals: Proposed dwelling and detached domestic garage Decision: Decision Date:</p> <p>Ref: M/1976/0313 Proposals: EXTENSION AND REPAIRS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/1996/4077 Proposals: Alterations to dwelling Decision: PDNOAP Decision Date:</p>	

APPLICATION NUMBER – LA09/2023/0005/F
ACKN

Summary of Consultee Responses

DFI Roads - Enniskillen Office-24-02-2023.docx

DAERA - Omagh-LA09-2023-0005-F.docx

DFI Roads - Enniskillen Office-DC Checklist 1.doc
Roads Consultation - Full response.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Proposed Floor Plans Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02 Rev.01

Notification to Department (if relevant)

Not Applicable



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2023/1070/O	Target Date: 24 January 2024
Proposal: Proposed dwelling and garage	Location: Adjacent to 59 and 24M SE of 55 Killary Lane Killary Stewartstown Dungannon
Applicant Name and Address: Mr Brian Corr 55 Killary Lane Stewartstown Dungannon BT71 5QE	Agent Name and Address: Mr Seamus Donnelly 80A Mountjoy Road, Aughrimderg Coalisland BT71 5EF
Summary of Issues: <p>This application is for a dwelling and garage in the countryside. The application is being assessed against CTY2a, dwelling in a cluster. The site is close to focal points but not associated with them as it is too far removed, The cluster itself is well defined with dwellings and buildings around the site. A dwelling here would be rounding off the cluster and meets the spirit of the clustering policy.</p>	
Summary of Consultee Responses: DFI Roads - provided standards for acceptable access	
Characteristics of the Site and Area: The site is a 0.14ha parcel of ground located on Killary Lane off the Mountjoy Road and lies approximately 440m north-east of Clonoe. The site is located within the Greenbelt as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a square parcel of land comprising an agricultural shed and part of a yard, as well as an existing access laneway which serves No. 55 Killary Lane. The southern boundary of the site is defined by hawthorn hedging, with a post and wire fence along the northern	

boundary. The eastern boundary is undefined as it is cut out of a larger agricultural field. The western boundary is defined by shrubbery to the northern portion and the wall of the shed on site defining the southern portion.

There is significant development pressure in the area, with 12 dwellings and associated outhouses within 200m of the site. The Western Building Systems factory complex lies approximately 200m to the south-east of the site, across the public road. The settlement limits of Dernagh/Clonoe lies approximately 450m to the south-west of the site.

Description of Proposal

Proposed dwelling and garage

Deferred Consideration:

This application was before the Planning Committee in February 2024 where it was deferred for a meeting with Dr Boomer to discuss the clustering policy and explore other potential policies that might be more appropriate. A meeting was held on 15 February 2024 where the clustering policy was discussed and the agent indicated the site is contained with other development and is located close to an existing church and hall to the east and a large employer, Western Buildings, to the south. (Fig 1 below) Members are reminded this proposal was recommended for refusal as it was not associated with a focal point or at a cross roads, all other criteria in CTY2A have been met. I do not consider the proposal could be associated with the focal points indicated by the agent as it is removed from them and there is a clear break in development.



Fig 1 Site in red and focal points identified by agent in yellow

Following the meeting, I carried out an inspection of the site and the surrounding area. The site is access off a short laneway from Killary Klane to the north, which is enclosed by dwellings. The site includes an existing agricultural building and an open silo along part of the south boundary (Fig 2). On site there is a sense of enclosure as the site is surrounded

by development. The applicant has provided a concept plan showing a new dwelling located in place of the existing agricultural shed and silo.



Fig 2 –proposed site, Fig 3 - concept

This proposal does not meet all the criteria for a dwelling in a cluster as it is not associated with a focal point or at a crossroads and members could refuse the proposal on that single point. However, this proposal could be considered as an exception to the clustering policy as it is within a well defined cluster of development and the proposal will not result in any additional buildings in the cluster as it is removing the agricultural building and silo. In my opinion an appropriately designed and scaled dwelling here would have limited impact on the overall character of the area and would main the overall appearance of the cluster.

In light of the above I recommend that an exception to the clustering policy is made for the specific circumstances relating to this site and that planning permission is granted.

Conditions/Reasons for Refusal:

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

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

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

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

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

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

4. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the uploaded form RS1 including sight lines of 2.4m by 45.0m in both directions and a forward sight distance of 45.0m where the access meets the public road. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

5. The dwelling hereby approved shall have a ridge height not exceeding 5.0m above the finished floor level and the underbuilding shall not exceed 0.4m at any part.

Reason: To ensure the dwelling is not prominent and respects the character of the area.

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

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

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

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

Signature(s)

Date:

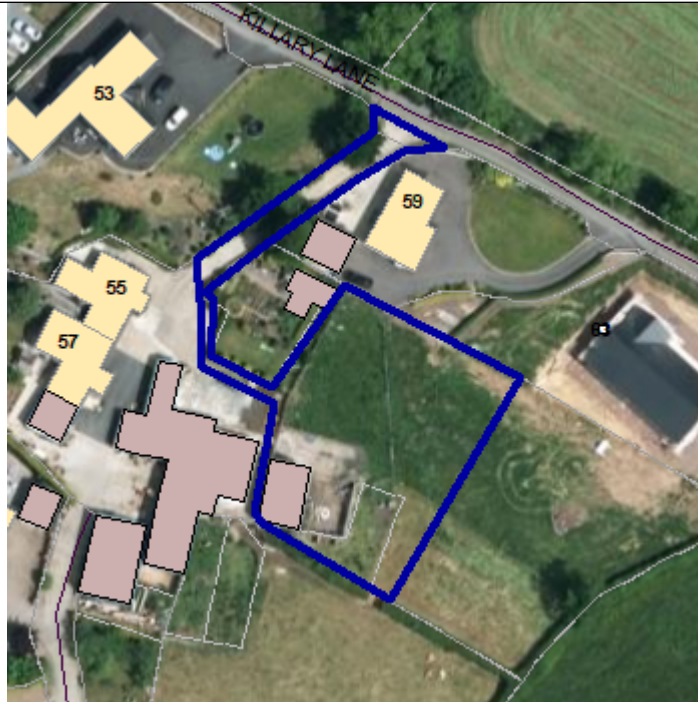


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 6 February 2024	Item Number: 5.28
Application ID: LA09/2023/1070/O	Target Date: 24 January 2024
Proposal: Proposed dwelling and garage	Location: Adjacent to 59 and 24M SE of 55 Killary Lane Killary Stewartstown Dungannon
Referral Route: Refuse is recommended	
Recommendation: Refuse	
Applicant Name and Address: Mr Brian Corr 55 Killary Lane Stewartstown Dungannon BT71 5QE	Agent Name and Address: Mr Seamus Donnelly 80A Mountjoy Road, Aughrimderg Coalisland BT71 5EF
Executive Summary: The proposal is presented to Committee as it fails to meet all the policy criteria of Policy CTY 2a of PPS 21, New Dwellings in Existing Clusters, in that the application site is not associated with a focal point, nor is it located at a crossroads.	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	DC Checklist 1.doc FORM RS1 STANDARD.doc Roads outline.docx

Representations:

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

Summary of Issues

Characteristics of the Site and Area



The site is a 0.14ha parcel of ground located on Killary Lane off the Mountjoy Road and lies approximately 440m north-east of Clonoe. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a square parcel of land comprising an agricultural shed and part of a yard, as well as an existing access laneway which serves No. 55 Killary Lane. The southern boundary of the site is defined by hawthorn hedging, with a post and wire fence along the northern boundary. The eastern boundary is undefined as it is cut out of a larger agricultural field. The western boundary is defined by shrubbery to the northern portion and the wall of the shed on site defining the southern portion.

There is significant development pressure in the area, with 12 dwellings and associated outhouses within 200m of the site. The Western Building Systems factory complex lies approximately 200m to the south-east of the site, across the public road. The settlement limits of Derragh/Clonoe lies approximately 450m to the south-west of the site.

Description of Proposal

Proposed dwelling and garage

Planning Assessment of Policy and Other Material Considerations

Policy Consideration

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

Relevant Histories

There are no recent relevant histories associated with this site.

Representations

Five (5) neighbouring properties were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of representation have been received.

Dungannon and South Tyrone Area Plan 2010

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

Mid Ulster District Council Draft Plan Strategy 2030

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

SPPS – Strategic Planning Policy Statement for Northern Ireland

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

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Killary Lane, as indicated on the submitted plan. DFI Roads have no objection subject to sightlines of 2.4m x 45m being provided.

CTY1 of PPS 21 - Development in the Countryside

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the case of a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

CTY 2a – New Dwellings in Existing Clusters

CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

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

The existing development in the area lies outside of a farm. To the immediate north of the site lies No. 59 - a single storey dwelling and garage and to the north-east is No. 63, a single storey dwelling. Immediately adjacent to and north-west of the site is a greenhouse and garden area. To the immediate west are a number of outbuildings which are associated with No's 57 and 55 Killary Lane, two single storey dwellings accessed via the same laneway as the application site. A further 4 dwellings lie to the north-west of these two dwellings, extending along Killary Lane in a linear fashion. From this I consider the first criterion for CTY 2a has been met.

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

When travelling west along the Mountjoy Road the existing buildings all read as a cluster and I believe the cluster appears as a visual entity in the landscape. The second criterion has been met.

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

There is no focal point in the immediate area such as a community building or social facility and the site is not located at a crossroads. In a supporting statement submitted by the agent it is argued that the focal point includes a company office, factories (7) and store as well as a hall and St Michael's Church and graveyard. There are also 13 houses in close proximity with the nearest being within 8m from the boundary. The agent argues that the site does not move outside the confines of the existing cluster and does not add to or create a ribbon of development in this area and this application meets all the requirements of a cluster. I do not consider St. Michaels Church and Hall can be considered a focal point here given the 300m distance from the site. It does not read with the existing development of Killary Lane when travelling along the public road, and therefore cannot be considered a focal point associated with the site. I am not satisfied that the proposal meets this criterion of the policy.

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

I am content there is a suitable degree of enclosure and there is development on two sides as there are two dwellings to the north/north-east and a number of dwellings to the west and north-west. There will be critical views of the site however it reads fully with the 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;

I am of the opinion that a new dwelling here can be absorbed into the existing cluster and will not significantly alter the existing character here. A dwelling on this site will

consolidate the existing development and will not visually intrude into the open countryside. Accordingly, the fifth criterion can be met.

development would not adversely impact on residential amenity.

A new dwelling on this site would not adversely impact on residential amenity should an approval be considered acceptable, particularly if it is sited to the southern portion of the site, ensuring the maximum possible separation distance from No. 59 which is the dwelling closest to the site.

Policy CTY 13 – Design and Integration and Policy CTY 14 – Rural Character

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application. The proposal meets the requirements of CTY 13.

CTY 14 of PPS21 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling 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. A dwelling on this site is in accordance with this policy and the proposal therefore complies with CTY 14.

There is no evidence to suggest that the proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement.

Other Material Considerations

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

From a check of the Rivers Agency Strategic Flood Map I have no flooding concerns. Although the proposal meets most of the criteria set down in CTY2a it fails to meet all of them. As the application site is not associated with a focal point, nor located at a crossroads I recommend the application is refused as it is contrary to CTY 1 & CTY 2a of PPS 21.

Summary of Recommendation:

Refuse is recommended

Refusal Reasons

Reason 1

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

Reason 2

The proposal is contrary to Policy CTY 2a of Planning Policy Statement 21, New Dwellings in Existing Clusters, in that the application site is not associated with a focal point, nor is it located at a crossroads.

Signature(s): Deirdre Laverty

Date: 23 January 2024

ANNEX	
Date Valid	11 October 2023
Date First Advertised	31 October 2023
Date Last Advertised	24 October 2023
Details of Neighbour Notification (all addresses)	
<p>The Owner / Occupier 57 Killary Lane Stewartstown Dungannon Tyrone BT71 5QE</p> <p>The Owner / Occupier 55 Killary Lane Stewartstown Dungannon Tyrone BT71 5QE</p> <p>The Owner / Occupier 63 Killary Lane Stewartstown Dungannon Tyrone BT71 5QE</p> <p>The Owner / Occupier 53 Killary Lane Stewartstown Tyrone BT71 5QE</p> <p>The Owner / Occupier 59 Killary Lane Stewartstown Tyrone BT71 5QE</p>	
Date of Last Neighbour Notification	18 October 2023
Date of EIA Determination	
ES Requested	<events screen>
<u>Planning History</u>	
<p>Ref: LA09/2019/1054/O Proposals: Proposed dwelling and domestic garage on an infill site Decision: PG Decision Date: 17-OCT-19</p> <p>Ref: M/1980/0548 Proposals: EXTENSION AND RENOVATIONS TO DWELLING Decision: PG Decision Date:</p> <p>Ref: M/2002/0846/O Proposals: Proposed Retirement Dwelling Decision: Decision Date:</p> <p>Ref: M/1994/0497</p>	

Proposals: Erection of replacement dwelling

Decision: PG

Decision Date:

Ref: LA09/2023/1070/O

Proposals: Proposed dwelling and garage

Decision:

Decision Date:

Ref: M/1996/0577B

Proposals: Retirement Dwelling & garage

Decision: PG

Decision Date:

Ref: M/1988/0280

Proposals: EXTENSION TO DWELLING

Decision: PG

Decision Date:

Ref: LA09/2019/1681/RM

Proposals: Proposed Dwelling & Domestic Garage on an Infill Site

Decision: PG

Decision Date: 22-APR-20

Ref: M/2001/1189/O

Proposals: Retirement Dwelling

Decision: PG

Decision Date: 13-MAR-02

Ref: M/2005/0623/O

Proposals: Proposed retirement dwelling

Decision: PG

Decision Date: 15-JUN-05

Ref: M/1998/0497

Proposals: Site for Dwelling

Decision: PG

Decision Date:

Ref: M/2006/0266/RM

Proposals: Proposed Retirement Dwelling

Decision: PG

Decision Date: 28-JUN-06

Ref: M/1992/0444

Proposals: New Vehicular Access to existing dwelling

Decision: PG
Decision Date:

Summary of Consultee Responses

DFI Roads - Enniskillen Office-DC Checklist 1.docFORM RS1 STANDARD.docRoads outline.docx

Drawing Numbers and Title

Site Location Plan Plan Ref: 01


Notification to Department (if relevant)

Not Applicable

Report on	Consultation on Forest Service afforestation proposal
Date of Meeting	Tuesday 9 th April 2024
Reporting Officer	Lorraine Moon
Contact Officer	Melvin Bowman

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To inform members of a statutory consultation received from Forest Service, an Agency of the Department of Agriculture, Environment and Rural Affairs (DAERA) in accordance with the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 (as amended) in relation to an afforestation proposal at Tirquin, Killyclogher, Omagh.
2.0	Background
2.1	<p>PROJECT DETAILS</p> <p>Townland and Location: Tirquin, Killyclogher, Omagh</p> <p>Project Type: Afforestation (Native woodland)</p> <p>Project Area: 8.73ha</p>
2.2	Forest Service on behalf of the Department of Agriculture, Environment & Rural Affairs (DAERA) is required to form an opinion under the EIA (Forestry) Regulations as to whether the above project is likely to have a significant effect on the environment.
2.3	They have consulted with Mid Ulster District Council as a Statutory Consultee requesting any information relating to this project or considerations the Council may have which would assist them in providing an opinion in accordance with the Regulations.
2.4	Forest Service have included an initial screening of this project in respect of the Forestry EIA Regulations and is based on limited data only.
2.5	The consultation was received by email on 19 th March and a response is requested within 14 days. Forest Service on behalf of the Department of Agriculture, Environment & Rural Affairs (DAERA) is required to form an opinion under the EIA (Forestry) Regulations as to whether the above project is likely to have a significant effect on the environment. Forest Service have requested views on this project proposal which MUDC consider may be of assistance in providing an opinion in respect of the Regulations.

3.0	Main Report
3.1	The proposed afforestation scheme is located at Tirquin, Killyclogher, Omagh xy co-ords 248705 374687 – see map 1 below.
3.2	
	Map 1. Screenshot of project area provided by Forest Service.
3.3	The proposal is an afforestation proposal, for the provision of new woodlands in a project area of 8.73hectares. We note the proposal is for native woodland.
3.4	In addition to the features identified in Forest Service’s screening report, which is attached in appendix 1, we have the following comments to make.
3.5	According to DFI Rivers Flood Map the proposal site is not affected by any existing flooding issues or potentially by any climate change flooding issues. However it should be noted that the site is within the Camowen Water Catchment Area and a watercourse runs along the western boundary of the site.
4.0	Other Considerations
4.1	Financial, Human Resources & Risk Implications
	Financial:
	Human:
	Risk Management:
4.2	Screening & Impact Assessments
	Equality & Good Relations Implications:
	Rural Needs Implications:

5.0	Recommendation(s)
5.1	Members are requested to note the contents of this report and agree to issue the consultation response attached in appendix 2.
6.0	Documents Attached & References
	<ul style="list-style-type: none"> - Appendix 1 – Forest Service Screening matrix - Appendix 2 – Consultation Response to Forest Service from MUDC (Draft – To be agreed)

Appendix 1

Screening Matrix for Afforestation Projects

File	ERA23/24-79
Townland and location, xy co-ordinates	Tirquin, Killyclogher, Omagh xy 248705 374687 H 48705 74687
Project Type	Afforestation
Block/Area	8.73ha
Type of woodland; Species; provenance of native species	Mixed Native Broadleaves with SP & Open Space
Ground Preparation & Drainage & Chemical application	Hinge Mound & No Drainage, Comply with UKFS Soil & Water Guidelines Tree Guards on Broadleaf Species
Land Use	Agriculture, Grazing & Silage
Soil type (refer to peat depth >50cm)	SWG2, SWHG
Vegetation	Mixed Grass, Rushes & Hedgerows
Water (Incl Freshwater Pearl Mussel catchment)	Camowen Water Catchment Area. Watercourse on Boundary
Designated areas - Within a 2km radius of project - SAC,SPA, ASSI, RAMSAR, hen harrier breeding sites, breeding wader sites. Within 1km – red grouse. Within 100 m - SLNCI, AWI, fens. Within AONB Within or adjacent to NNR	Sperrin AONB 830m from site boundary, BWader sites x5, 50m, 503m, 580m, 580m, 989m from site
Is an assent/ Habitats Regulations Assessment required?	No (Sperrin AONB 830m from site boundary, BWader sites x5, 50m, 503m, 580m, 580m, 989m from site)
Non-designated priority habitats (see NIEA website);	None

Breeding Sites (priority species and species of conservation concern, species protected under Wildlife (NI) Order); Veteran trees and Deadwood. Grassland priority habitats. Champion trees.	
Built Heritage/ Archaeological Features Scheduled monuments /SMRs/ listed buildings within 50m of site boundary) Check Register of Parks, Gardens and Demesnes ASAI - Areas of Special Archaeological Interest	None within 50m
Topography, Landscape Character Assessments & Impacts	Site within Landscape Character Area Camowen Valley / Bessy Bell & Gortin & Regional Landscape Character Area Omagh Basin
Mitigating measures (eg Design, water buffers, timing of operation etc)	SS & NS in Planting Plan 5.0 but not in Prescription 5.1 (looks like copy paste error)
Screening by/ Date	George McFarland, 15/11/23
Result of NIEA (and where appropriate other) consultations	
Opinion – Relevant/ Not relevant	
Reasons for Opinion	
Signed by/ Date	

Screenshot of project area below including notable GIS features against ortho backdrop

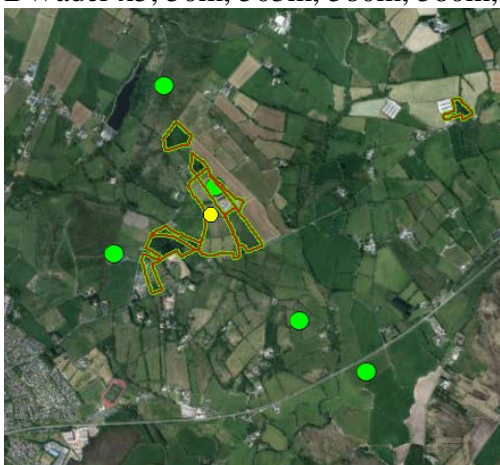
Site Boundary



Sperrin AONB 830m from site boundary



BWader x5, 50m, 503m, 580m, 580m, 989m from site



Register of Parks, Gardens & Demesnes >2.7km



Industrial Heritage >150m+



Rivers



NIE



Medium Priority Land



Medium Priority Woodland Planting



Listed Buildings >540m House





Mid Ulster District Council
Planning Department
Local Development Plan Team
50 Ballyronan Road
Magherafelt
BT45 6EN
Tel – 03000 132 132
Email: developmentplan@midulstercouncil.org

Mr Brendan Mulholland
Forest Officer
Brendan.mulholland@daera-ni.gov.uk
By email only

Your Ref: ERA23/24-79
Date: 22/03/2024

Dear Brendan,

Re: Afforestation Project at Tirquin, Killyclogher, Omagh.

Thank you for your correspondence dated 19th March relating to the EIA screening of a proposed afforestation scheme at Tirquin, Killyclogher, Omagh. Mid Ulster District Council note the contents of your assessment of the site contained within the attached Screening Matrix. In addition to the information provided within your documentation and having carried out an assessment of the site and location, the Council have no comments to add for the purposes of this EIA screening exercise. Should you have any queries then please do not hesitate to contact this office.


Yours sincerely,

For and on behalf of Mr Melvin Bowman, Head of Strategic Planning MUDC.

Report on	Consultation on Forest Service afforestation proposal
Date of Meeting	Tuesday 9 th April 2024
Reporting Officer	Lorraine Moon
Contact Officer	Melvin Bowman

Is this report restricted for confidential business?	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

1.0	Purpose of Report
1.1	To inform members of a statutory consultation received from Forest Service, an Agency of the Department of Agriculture, Environment and Rural Affairs (DAERA) in accordance with the Environmental Impact Assessment (Forestry) Regulations (Northern Ireland) 2006 (as amended) in relation to an afforestation proposal at Drumconready, Draperstown.
2.0	Background
2.1	<p>PROJECT DETAILS</p> <p>Townland and Location: Drumconready, Draperstown</p> <p>Project Type: Afforestation (Native woodland)</p> <p>Project Area: 5.1ha</p>
2.2	Forest Service on behalf of the Department of Agriculture, Environment & Rural Affairs (DAERA) is required to form an opinion under the EIA (Forestry) Regulations as to whether the above project is likely to have a significant effect on the environment.
2.3	They have consulted with Mid Ulster District Council as a Statutory Consultee requesting any information relating to this project or considerations the Council may have which would assist them in providing an opinion in accordance with the Regulations.
2.4	Forest Service have included an initial screening of this project in respect of the Forestry EIA Regulations and is based on limited data only.
2.5	The consultation was received by email on 19 th March and a response is requested within 14 days. Forest Service on behalf of the Department of Agriculture, Environment & Rural Affairs (DAERA) is required to form an opinion under the EIA (Forestry) Regulations as to whether the above project is likely to have a significant effect on the environment. Forest Service have requested views on this project proposal which MUDC consider may be of assistance in providing an opinion in respect of the Regulations.

3.0	Main Report
3.1	<p>The proposed afforestation scheme is located at Drumconready, Draperstown xy co-ords 279274 399168 – see map 1 below.</p>  <p>Map 1. Screenshot of project area provided by Forest Service.</p>
3.2	<p>The proposal is an afforestation proposal, for the provision of new woodlands in a project area of 5.1hectares. We note the proposal is for native woodland.</p>
3.3	<p>In addition to the features identified in Forest Service’s screening report, which is attached in appendix 1, we have the following comments to make.</p>
3.4	<p>The proposal site is located within the Sperrin AONB, Coolnasillagh SLNCI is within the proposal site.</p>
3.5	<p>According to DFI Rivers Flood Map the proposal site is not affected by any existing flooding issues or potentially by any climate change flooding issues. However it should be noted that the Moyola Water Catchment Area, Watercourses run along the western boundary of the site.</p>
4.0	Other Considerations
4.1	<p>Financial, Human Resources & Risk Implications</p> <p>Financial:</p> <p>Human:</p> <p>Risk Management:</p>
4.2	<p>Screening & Impact Assessments</p> <p>Equality & Good Relations Implications:</p> <p>Rural Needs Implications:</p>

5.0	Recommendation(s)
5.1	Members are requested to note the contents of this report and agree to issue the consultation response attached in appendix 2.
6.0	Documents Attached & References
	<ul style="list-style-type: none"> - Appendix 1 – Forest Service Screening matrix - Appendix 2 – Consultation Response to Forest Service from MUDC (Draft – To be agreed)

APPENDIX 1

Screening Matrix

File	ERA23/24-52
Townland and location, xy co-ordinates	Drumconready, Draperstown xy 279274 399168 H 79274 99168
Project Type	Afforestation
Block/Area	5.1ha
Type of woodland; Species; provenance of native species	Native Broadleaves & SP
Ground Preparation & Drainage & Chemical application	No Ground Prep, Tree Guards with Bamboo Cane
Land Use	Agricultural Grassland
Soil type (refer to peat depth >50cm)	SWG2
Vegetation	Agricultural Grassland, Some Gorse & Rush
Water (Incl Freshwater Pearl Mussel catchment)	Moyola Water Catchment Area, Watercourses at Boundary of site. All operations to conform to UKFS
Designated areas - Within a 2km radius of project - SAC, SPA, ASSI, RAMSAR, hen harrier breeding sites, breeding wader sites. Within 1km – red grouse. Within 100 m - SLNCI, AWI, fens. Within AONB Within or adjacent to NNR	Within Sperrin AONB, Coolnasillagh SLNCI within site
Is an assent/ Habitats Regulations Assessment required?	No
Non-designated priority habitats (see NIEA website); Breeding Sites (priority species and species of conservation concern, species protected under Wildlife (NI) Order); Veteran trees and Deadwood. Grassland priority habitats.	There are native trees on boundary of site. The new additional native woodland will complement this.

Champion trees.	
Built Heritage/ Archaeological Features Scheduled monuments /SMRs/ listed buildings within 50m of site boundary) Check Register of Parks, Gardens and Demesnes ASAI - Areas of Special Archaeological Interest	None with 50m
Topography, Landscape Character Assessments & Impacts	Site within Landscape Character Area Upper Moyola Valley & Regional Landscape Character Area Sperrins
Mitigating measures (eg Design, water buffers, timing of operation etc)	Consider using local seed source for area close to Ancient/Long Established Woodland or prepare ground for Natural Regeneration to facilitate Ancient/Long Established Woodland expansion
Screening by/ Date	George McFarland, 07/11/23
Result of NIEA (and where appropriate other) consultations	In summary, no NIEA objections to this proposal.
Opinion – Relevant/ Not relevant	DRAFT Not relevant.
Reasons for Opinion	No priority habitats, species or features of cultural interest will be affected by this proposal.
Signed by/ Date	DRAFT B Mulholland 19/3/24



Appendix 2

Mid Ulster District Council
Planning Department
Local Development Plan Team
50 Ballyronan Road
Magherafelt
BT45 6EN
Tel – 03000 132 132
Email: developmentplan@midulstercouncil.org

Mr Brendan Mulholland
Forest Officer
Brendan.mulholland@daera-ni.gov.uk
By email only

Your Ref: ERA23/24-52
Date: 22/03/2024

Dear Brendan,

Re: Afforestation Project at Drumconready, Draperstown.

Thank you for your correspondence dated 19th March relating to the EIA screening of a proposed afforestation scheme at Drumconready, Draperstown.

Mid Ulster District Council note the contents of your assessment of the site contained within the attached Screening Matrix. In addition to the information provided within your documentation and having carried out an assessment of the site and location, the Council have no comments to add for the purposes of this EIA screening exercise.

Should you have any queries then please do not hesitate to contact this office.

Yours sincerely,

For and on behalf of Mr Melvin Bowman, Head of Strategic Planning MUDC.

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 5 March in Council Offices, Circular Road, Dungannon and by virtual means

Members Present

Councillor S McPeake, Chair

Councillors Black (5.27 pm), J Buchanan, Carney*, Clarke*, Cuthbertson*, Graham, Kerr*, Mallaghan, McConnell, McElvogue, McFlynn*, D McPeake*, Robinson, Varsani

Officers in Attendance

Dr Boomer, Service Director of Planning (SD: PI)
 Mr Bowman, Head of Strategic Planning (HSP)**
 Ms Doyle, Head of Local Planning (HLP)
 Mr Marrion, Senior Planning Officer (SPO)
 Ms McCullagh, Senior Planning Officer (SPO)
 Mr McClean, Senior Planning Officer (SPO)
 Ms McKinless, Senior Planning Officer (SPO)
 Ms Donnelly, Council Solicitor (CS)
 Ms O'Neill, Council Solicitor (CS)**
 Ms Hughes, Planning Officer (PO)
 Ms Mhic Iomhair, Planning Officer (PO)
 Mr Stewart, Planning Officer (PO)
 Ms Carson, Trainee Planning Officer (TP)
 Mr McAleer, Trainee Planner (TP)
 Mrs Grogan, Committee and Member Services Officer

Others in Attendance

LA09/2018/1337/F	Mr McBurney Planning Consultant (TBC)
LA09/2020/1319/F	Mr O'Callaghan
LA09/2022/1280/O	Mr Cassidy*
LA09/2023/0238/F	Mr S Hughes*
LA09/2023/0238/F	Mr Ross*
LA09/2023/0683/O	Mr Cushnahan
LA09/2023/0693/F	Mr A Molloy
LA09/2023/1069/F	Mr Bronte Mr McKee
LA09/2023/1166/F	Mr Kelly Mr Sloan
LA09/2018/0754/O	Mr Cassidy*
LA09/2019/0179/F	Mr Cassidy*
LA09/2019/0179/F	Mr J Hughes
LA09/2021/1672/F	Mr Cassidy*

Councillor Molloy***

* Denotes members and members of the public present in remote attendance

** Denotes Officers present by remote means

*** Denotes others present by remote means

The meeting commenced at 5 pm.

P026/24 Notice of Recording

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

The Chair, Councillor S McPeake in referring to online viewing advised that a quick discussion would take place later in the meeting as there were new regulations being proposed regarding hybrid meetings. The Chair said that this was something that Council had to review.

P027/24 Apologies

Councillor Martin.

P028/24 Declarations of Interest

The Chair, Councillor S McPeake reminded members of their responsibility with regard to declarations of interest.

P029/24 Chair's Business

The Service Director of Planning (SD: PI) advised that he had one item he wished to bring to members attention which relates to abandonment consultation from Roads Service to Council. Roads Service are seeking peoples view on abandonment to part of the road on Killybracken Road, Dungannon and what they would be suggesting is to close part of a small laneway on a bad bend which should be off benefit to public safety. Mr Marrion (SPO) in compiling his report which is attached as an addendum, very helpfully pointed out that whilst it cures the blind-spot, this was a bad bend and would be good if some investigation to see what can be done by public investment to protect public road users further, whether with sight lines or better visibility. Permission was sought from the committee to write into Roads Service to get this factored in, stating that whilst this was very welcome, more could be done.

Councillor Cuthbertson advised that he attended a meeting with DfI Roads following a bad accident close to a year ago, where DfI have come up with this proposal, they are also proposing implementing advisory 30 mph speed limit signage both sides of the corner. The member stated that ideally, he would like to see a bigger scale of work at the corner, but this was an improvement and felt that 30 mph advisory signage will go some way to help and heading in the right direction.

Proposed by Councillor Mallaghan
Seconded by Councillor Cuthbertson and

Resolved To agree the following response to be issued to DfI Roads:

- 1) Mid Ulster District Council welcome the improvements the stopping up and abandonment of this stretch of road would make to this crossroads.
- 2) Mid Ulster District Council still have concerns about the safety of traffic turning into Hollow Lane from Eglish Road, especially those vehicles making a right turn into Hollow Lane. Mid Ulster District Council seek improvements to the forward and rear sight lines at this junction for the safety of traffic on Eglish Road.

The Chair, Councillor S McPeake wished to make members, agents and architects aware that this was Dr Boomer's last meeting of the Planning Committee of Mid Ulster Council and will all be very sorry to see him leave as there will be big boots to fill thereafter. The Chair advised that he would leave speaking on this matter in more detail until the culmination of the meeting where members will have the opportunity to make their own comments.

The Service Director of Planning (SD: PI) referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting/consideration of additional information –

Agenda Item 5.3 – LA09/2021/0511/F – Storage building to replace existing storage unit at approx. 20m W of 35 Moss Road, Ballymaguigan, Magherafelt for Christopher Cassidy

Agenda Item 5.6 – LA09/2023/0433/F – Development of 5 No. dwellings (1 No. detached and 4 No. semi-detached) with associated site works and the relocation of an existing access to an existing dwelling at land adjacent to 90 Roughan Road, Newmills, Dungannon for Nigel Johnston

Agenda Item 5.7 – LA09/2023/0520/F – Dwelling and garage at 75m N of 42 Gortnaskea Road, Stewartstown for Philip McCrea

Agenda Item 5.8 – LA09/2023/0683/O – Dwelling at an existing cluster at adjacent to and SW of 150A Washingbay Road, Coalisland for Mr Patrick Brady

Agenda Item 5.13 – LA09/2023/0888/O – Infill dwelling & garage at lands immediately S of 22 School Lane, Gulladuff for Mrs Anne McKee

Agenda Item 5.14 – LA09/2023/0955/O – Site of dwelling and garage adjacent to 19 Moneyneany Road, Draperstown for Mr Adrian Kennedy

Agenda Item 5.16 – LA09/2023/1052/O – Dwelling & garage at 60m NE of 17 Edendoit Road, Pomeroy for Mr Michael Donnelly

Agenda Item 5.17 – LA09/2023/1053/F – Self-contained granny flat within the curtilage of the existing property for the benefit of the occupants of the existing dwelling to the rear of 5 Ardbeg, Donaghmore Road, Dungannon for Brian Cassidy

Agenda Item 5.18 – LA09/2023/1069/F – 7 dwellings and 8 apartments with associated car parking, private and communal amenity space, landscaping, site works and access arrangements from Chapel Road at lands to the S of Nos 14-44 Fortview Terrace, N of Nos 19-33 Dunleath Avenue, E of Nos 11-17 Drumcree and W of Nos 85-101 Church Street, Cookstown for Kelly Brothers Ltd

Agenda Item 5.22 – LA09/2023/1217/O – Dwelling and garage on a farm at land adjacent to 30 Killyfaddy Road, Magherafelt for Mr Ian Brown

Agenda Item 5.24 – LA09/2023/1377/O – Dwelling and garage under at 30m W of 153 Washingbay Road, Coalisland for Mr Philip Brady

Proposed by Councillor Mallaghan
Seconded by Councillor McConnell and

Resolved That the planning applications listed above be deferred for an office meeting/consideration of additional information.

Matters for Decision

P030/24 Planning Applications for Determination

The Chair drew Members attention to the undernoted planning applications for determination.

LA09/2018/1337/F Water recycling tank and sand de-watering unit with dosing units and associated equipment/cabins with mobile log washer unit to assist the existing plant at 25 Crancussy Road, Cookstown for Core Aggregates

Members considered previously circulated report on planning application LA09/2018/1337/F which had a recommendation for approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Varsani and

Resolved That planning application LA09/2018/1337/F be approved subject to conditions as per the officer's report.

LA09/2020/1319/F Mixed-use development of 80 units (56 dwellings & 24 apartments) & 8 industrial units (light industrial & storage) immediately N of 31 Ballygawley Road, Dungannon, bounded by Cloneen & Ballysaggart Park to the S & W for Orchard County Contracts

Members considered previously circulated report on planning application LA09/2020/1319/F which had a recommendation for approval.

Proposed by Councillor Varsani
Seconded by Councillor McElvogue and

Resolved That planning application LA09/2023/0238/F be approved subject to the conditions as per officer's report and a Section 76 Agreement being put in place and sealed before full Council.

LA09/2021/0511/F Storage building to replace existing storage unit at approx. 20m W of 35 Moss Road, Ballymaguigan, Magherafelt for Christopher Cassidy

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2022/1280/O Off-site replacement dwelling and domestic garage at lands approx. 90m SW of 26 Hillside Road, Upperlands for Dr Kate Lagan and Keith Higgins

Members considered previously circulated report on planning application LA09/2022/1280/O which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2022/1280/O be approved subject to conditions as per the officer's report.

LA09/2023/0238/F Residential development and associated ancillary works at lands to the W of Forth Glen, Cookstown; adjacent to 40, 41, 42, 43, 44, 61, 62, 63 and 79 Forth Glen, Cookstown for JAMDAC Developments Ltd

Ms McKinless (SPO) presented previously circulated report on planning application LA09/2023/0238/F which had a recommendation for approval.

The Service Director of Planning (SD: PI) referred to the term 'social housing' and stated that this included affordable housing, such as shared ownership with a housing association. Unfortunately, we still live in a world where people still see the term social housing and get worried. It is clearly difficult for a lot of young people to enter the housing market, particularly Mid Ulster where we do not benefit from high rates of pay compared to other parts of Northern Ireland or indeed the UK. For many, shared ownership for young people to get on the property ladder.

The Chair advised that requests to speak had been received, one in favour and one against.

The Chair advised that Mr Steven Hughes was in attendance to speak against the application and invited him to address the committee.

Mr Hughes thanked members the opportunity for allowing him to address the committee tonight. He advised that his home borders right onto the proposed development in which himself and several other residents of Forth Glen are opposed

to. Upon reading the case officer's report he was alarmed to see a number of red flags which in his opinion were not adequately addressed. Firstly, the biodiversity checklist which has been mentioned to be submitted stated that no trees were to be removed and no streams within 50m of the site, the submitted plans clearly show a number of mature trees to be removed where the access is to be proposed, the site is also 20m from two streams which link directly to the Ballinderry River. Mr Hughes advised that he personally had seen bats flying around this area and on some occasions some owls. He felt that the checklist was not completed by a qualified Ecologist and merely a tickbox exercise in which he had reservations about. Secondly, the land is phase 2 housing land which normally will not be released until all phase 1 has been utilised. By the agent's own admission, there is over 70 hectares of underdeveloped phase 1 lands still available within Cookstown boundaries, no robust assessment has been carried out on these 12 sites as to their availability. The approval of this scheme will set a dangerous precedent for similar applications within phase 2 lands. Thirdly, there is no commitment from any Housing Associations on their commitment to develop if approved, a letter within a file states the offer of support does not confirm funding or future programming, in essence there is no user.

The Chair advised that Mr Ross was in attendance to speak in favour of the application and invited him to address the committee.

Mr Ross advised that Mr Barry Kerr from Apex Housing was also in attendance tonight to speak.

Mr Ross said that they appreciated the work carried out by the planning team bringing this forward tonight as there was an urgent need for 124 social housing units in Cookstown and last year the Housing Executive put out a call for sites. The only answer to the call was this site and at this point and time it is the only tangible opportunity and desperately needed. Due to budget constraints in which Mr Kerr will update committee shortly on, the approval notice must be received by the end of this month. It is Apex Housing Association which will develop the project and will include a mixed layout of house types which is specifically designed to meet the range of need in line with stated requirements defined by the Housing Executive. This will be zoned as phase 2 housing land which has been in place for this last 20 years, it's a long-established zoning and no-one should be surprised that this housing development was coming forward. The layout is arranged with a proposed back-to-back to existing houses, with very generous back gardens proposed for these new houses and well above the minimum standard set out in guidance to ensure good separation from existing houses. The existing planting along the boundary will be augmented, with no planting to be removed, which is to respect the objector's comments. The scheme is mindful of the future development and potential for wider lands as it fits in with the comprehensive masterplan and consistent with those objectives, it's a thoughtful and commendable design and would recommend it to committee. Mr Ross advised that the applicant was happy to enter into a Section 76 Planning Agreement, but the timescale was an issue.

Mr Kerr thanked members for the opportunity to address committee in support of this housing development. Mr Kerr advised that he was the Director of Development at Apex Housing Association and very much welcomed the recommendation for

approval from the planning team. He confirmed that Apex Housing team were pleased to support the applicant in the delivery of homes for those most in need in the Council area. This scheme is committed to the Housing Executive's Social Housing Development Programme 2023/24, with funding secured for the same, however funding is subject to receipt of decision notice in advance to the end of the financial year 31 March 2024. Therefore, request would be respectfully made that the Planning committee endorse the planning team's recommendation for approval and at the same time if possible, afford delegated authority to the planning team to finalise the planning conditions and execute the associated Section 76 legal agreement. Mr Kerr advised that a Decision Notice was required by 29th March 2024.

The SD: PI advised that planning agreements for legal documents has to be done under Council seal. The SD: PI said what could be done was to provide a letter with the draft Decision Notice which basically states that this was the decision will be issued once the planning agreement is signed is under seal. Unfortunately, there is no other mechanism in place to do this but would be confident regarding the letter of the draft Decision Notice and also minutes of this meeting and felt that this was the way in which to proceed.

Mr Kerr said that it was his understanding that there was a full Council meeting on the 28th March.

The SD: PI advised that a Planning Agreement was a legal document and had to be agreed and drafted with our solicitors and their solicitors and would be quite happy to move this forward as quickly as possible. He said that he sees this as a fairly simple Planning Agreement as there was nothing complex about it and only agreement on it was that it was to be provided for affordable housing.

Mr Kerr said that there would be no objection to that, however Section 76 Agreement was a committed scheme on this year's Social Housing Development Programme, the outlook for 2024/25 remains very uncertain and very much anticipated that there could be a reduced budget for the delivery of the programme. Mr Kerr stated that he would be concerned if it was not possible to deliver this within this financial year, it may create further obstacles and would ask if possible that delegated authority is granted to the planning team to agree Section 76 Agreement with the applicant so that it can be presented to full Council, executed by the Chief Executive. He advised that Apex were very experienced in Section 76 Agreements through working with other Councils and nothing new to them and deliver them with much more onerous terms and quite simple process in stipulating affordable homes. Mr Kerr said that he would be happy to seek any opportunity to avail of a Decision Notice by 29th March.

The Chair enquired if objections raised by the objector, Mr Hughes were considered and dealt in terms of two key points alluded to, habitats around environmental assessment he felt was deficit and the use of zoned phased 2 lands that he felt were not appropriate at this stage.

Ms McKinless (SPO) advised that in respect of phased 2 land she had detailed within her presentation and case officer had a more detailed consideration within his report.

In respect of completion of the biodiversity checklist, this is a new issue brought to planners' attention, but had reviewed the checklist today and had spoken to the case officer who had been out twice to the site.

There were particular points to the checklist that Mr Hughes has raised concern about:

1) Shrubs and mature trees going to be removed as part of the development
As part of the checklist Mr Ross had ticked no and Mr Hughes had indicated that site 1 was going to potentially have a loss of mature and shrubs. The case officer had confirmed today that from his site visits he did not think there was any particular mature trees and whilst this particular site might have some trees, there is no mature trees.

2) Proximity to streams
There is a watercourse flowing along the western boundary along the blue land which was 150m away from the application site, there are 2 small sheughs or something similar flowing south of the site. One is potentially 45m from the application site and the other one is slightly closer. The question on the biodiversity checklist relates to this and stated that it may be beneficial if Mr Ross wished to elaborate on this.

Mr Ross said that point 4 of the second checklist refers to trees and shrublands, there is an area with tall grasses and whilst investigating that he did not regard that as shrubland or any interesting habitat and ticked no on checklist. In regards to streams within 50m, there are a few of what he would call sheughs with standing water in them, and a definition of a stream is a flow of water and basically these were drainage ditches. Point 7 on checklist refers to arable lands, this is pasture used for silage cutting to the boundaries and when talking about arable land on the checklist, would be really talking about large fields with substantial margins with wildflowers and biodiversity and this is not this type of land and would be confident that this was rough pasture and completed the biodiversity checklist correctly and did not need to get a specialist ecologist to investigate it.

Councillor Graham advised that it has been brought to her attention that there was already a problem with flooding on this site, with 4 properties already built which have flooding up to their doorways anytime there is any heavy rain. The member advised that a meeting has already taken place with the developer, NI Water and DfI Roads regarding the issue. Her colleague Councillor Wilson was in attendance and DfI have offered to provide the pipes necessary to fix the problem if the developer agreed to do the work which Councillor Wilson said he did. The member asked if this could be made a condition for approval also to ensure to fix the flooding before he starts to do something else.

In response to a query regarding location of dwellings, Councillor Graham advised that the developer was aware of the four dwellings affected.

Councillor Black entered the meeting at 5.27 pm.

The Chair referred to flooding at the site and enquired if Ms McKinless (SPO) was happy that this has been dealt with adequately or was there concerns.

Ms McKinless (SPO) advised that the application was assessed under PPS15 – Planning and Flood Risk, there is no indication that the sites were within any fluvial or pluvial floodplain. Policy FLD3 of PPS15 states that all residential developments comprising of more than 10 units will require the submission of a drainage assessment – this was submitted and DfI consulted regarding this. Following a subsequent request for consent of discharge, DfI Rivers has responded stating that they have no objections subject to imposition of a condition requiring a final submission of a detailed drainage network design prior to construction of the said drainage network.

The SD: PI advised that the bottom line was that there was no public record of flooding and purely a drainage issue.

The SD: PI stated that he was not dealing with the fine tuning of this planning application which was considered at officer level and more forefront to his mind was trying to break the cycle that is preventing affordable housing being delivered in Mid Ulster. In this instance a departure for the plan could be justified and it would be incorrect for the committee to believe what the objector stated that all phase 1 land has to be exhausted before you move to phase 2 land. What the plan says is that the release of land will be subject to review. In this instance we have conducted a review of supply of housing land in Cookstown and it is in our draft Area Plan and would be aware that by 2030 there would be a shortage of housing land in Cookstown. We also know that most housing land in Cookstown is committed and because of this we need to find other mechanisms to deliver social and affordable housing. The SD: PI in referring to planning agreement, that the planning committee can determine that permission be granted subject to a planning agreement and recommend that the Council seal be used. The minutes will go to full Council anyway and if there are any disputes over the use of the seal these can be raised at full Council, the purpose planning agreement simply relates to delivery of affordable housing. He was confident that we have addressed concerns raised by the objector and wished to remind members that this was for 14 units and not a major development and clearly in this instance in his view the application deserved an approval.

Proposed by Councillor Mallaghan
Seconded by Councillor Varsani and

Resolved That planning application LA09/2023/0238/F be approved subject to the conditions as per officer's report and a Section 76 Agreement being put in place and sealed before full Council.

LA09/2023/0433/F Development of 5 No. dwellings (1 no. detached and 4 no. semi-detached) with associated site works and the relocation of an existing access to an existing dwelling at

**land adjacent to 90 Roughan Road, Newmills, Dungannon
for Nigel Johnston**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0520/F Dwelling and garage at 75m N of 42 Gortnaskea Road,
Stewartstown for Philip McCrea**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2023/0683/O Dwelling at an existing cluster at adjacent to and SW of
150A Washingbay Road, Coalisland for Mr Patrick Brady**

Mr Marrion (SPO) presented a report on planning application LA09/2023/0683/O advising that it was recommended for refusal.

The Chair advised that a request to speak in support of the application had been received and invited Mr Cushnahan to address the committee.

Ms Doyle (HLP) advised that Mr Cushnahan was to attend in person tonight but did not appear.

The SD: PI asked that this application be deferred for an office meeting as he felt that there was an issue which needed further investigated.

Proposed by Councillor Mallaghan
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2023/0683/O be deferred for an office meeting.

**LA09/2023/0693/F Temporary mobile home at 20 Loughbracken Road,
Pomeroy for Mr Aidan Molloy**

The Chair advised that the above planning application is to be taken in confidential business due to personal circumstances relating to the application.

Agreed that this application be raised in confidential matters for decision.

**LA09/2023/0796/F Retention of existing mobile office space used in
connection with existing business at 27 Feddan Road,
Dungannon for Mr Timmy Wiggam**

Members considered previously circulated report on planning application LA09/2023/0796/F which had a recommendation for approval.

Proposed by Councillor McConnell
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2023/0796/F be approved subject to conditions as per the officer's report.

LA09/2023/0797/F Retention of existing workshop in connection with existing business at 27 Feddan Road, Ballygawley for Mr Timmy Wiggam

Members considered previously circulated report on planning application LA09/2023/0797/F which had a recommendation for approval.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson and

Resolved That planning application LA09/2023/0797/F be approved subject to conditions as per the officer's report.

LA09/2023/0860/F New fabrication shed and car parking facilities to serve existing workshops and new shed at 72 Glenshane Road, Castledawson for Top Frame Engineering Ltd

Members considered previously circulated report on planning application LA09/2023/0860/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0860/F be approved subject to conditions as per the officer's report.

LA09/2023/0888/O Infill dwelling & garage at lands immediately S of 22 School Lane, Gulladuf for Mrs Anne McKee

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/0955/O Site of dwelling and garage adjacent to 19 Moneyneany Road, Draperstown for Mr Adrian Kennedy

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/0959/F Change of house type from approved LA09/2017/0507/F; to two-storey design and the addition of a detached garage at 350m SW of 89 Caledon Road, Mulnahorn, Aughnacloy for Mr & Mrs David & Belinda Brady

Members considered previously circulated report on planning application LA09/2023/0959/F which had a recommendation for approval.

Proposed by Councillor Graham
Seconded by Councillor Robinson and

Resolved That planning application LA09/2023/0959/F be approved subject to conditions as per the officer's report.

LA09/2023/1052/O Dwelling & garage at 60m NE of 17 Edendoit Road, Pomeroy for Mr Michael Donnelly

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/1053/F Self-contained granny flat within curtilage of the existing property for the benefit of the occupants of the existing dwelling to the rear of 5 Ardbeg, Donaghmore Road, Dungannon for Brian Cassidy

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/1069/F 7 dwellings and 8 apartments with associated car parking, private and communal amenity space, landscaping, site works and access arrangements from Chapel Road at lands to the S of Nos 14-44 Fortview Terrace, N of Nos 19-33 Dunleath Avenue, E of Nos 11-17 Drumcree and W of Nos 85-101 Church Street, Cookstown for Kelly Brothers Ltd

Agreed that application be deferred for consideration of ownership challenge.

LA09/2023/1118/F Application under section 54 (in relation to application LA09/2016/0470/F) for the continuance of use of buildings without compliance with condition no.5 of the previous planning permission granted as a consequence of changes to the site layout being recently accessed and the subsequent review of the Noise Impact Assessment now superceded with a new up to date Noise Impact Assessment hereby submitted at 111 Ballynakilly Road, Coalisland for Formac Limited

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2023/1118/F which had a recommendation for approval.

Councillor Cuthbertson advised that there could be an incident where he had declared an interest in the original application and unsure which one that this condition was included in. He stated that he has had no interest in this current application but was concerned about why planners thought it was necessary to include this condition in to protect the residential homes and also Council playpark which is beside the site also and wondered how we can just remove it.

Councillor Cuthbertson proposed that a site visit be arranged so members can see for themselves the situation as it was so close to dwellings.

The Chair felt that going out on site to monitor noise levels would always be a danger as we may not get an accurate reflection.

Mr Marrion (SPO) directed members attention to previously circulated addendum Item 5.19 which was the notice for previous planning permission LA09/2016/0470/F. The application before members was a Section 54 application to remove condition 5 of LA09/2016/0470/F – *“within 6 weeks of the date of this decision, the enclosure of the buildings referred to in condition 2 will have panelling or a composite/ metal/masonry material fitted as detailed in the Noise Impact Assessment, dated March 2016, additional submissions dated August 2016 and December 2016”* – Reason: To protect the amenity of neighbouring residents.

Mr Marrion (SPO) advised that a revised acoustic report had been submitted with the report application which EHO had taken into account. They advised that there is a 5m high barrier that has been constructed around the site, noise within the sheds have been measured and noise at the nearest receptors was also measured which did not exceed noise limits contained in condition 10 within the permission. The SPO said that conditions 2,3,6,7,8,9 and 10 on previous permission should be carried on in any decision taken tonight. The decision being sought tonight is to amend 2016 Decision Notice but should be carrying forward those conditions to ensure that enforcement action is still able to be taken.

Mr Marrion (SPO) referred to the conditions previously mentioned to be included:

Condition 2: The use within the buildings shall be limited, in accordance with the Planning (Use Classes) Order (NI) 2015; to:

- Class B2 within the floorspace identified in yellow and
- Class B3 within the floorspace identified in blue

On drawing No.3 Rev1 bearing the stamp dated 21 Nov 2016

Reason: To protect the amenity of neighbouring residents

Condition 3: Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any other Order revoking and/or re-enacting that Order, no buildings or hard surfaces shall be constructed within the curtilage of this site without the grant of a separate planning permission from the Council

Reason: To allow the Council to consider the impacts of further development on the adjoining residential properties

Condition 6: The doors marked A & B into the existing workshop, as identified on drawing No. 3 Rev 1 bearing the stamp dated 21 Nov 2016 shall be kept closed except for the purposes of moving equipment or materials into the building.

Reason: To protect the amenity of neighbouring residents.

Condition 7: There shall be no deliveries and/or external activity outside the hours 09:00 hours and 18:30 hours Monday to Friday and 09:00 hours to 13:00 hours on Saturdays. There shall be no site activity on Sunday.

Reason: To protect the amenity of neighbouring residents.

Condition 8: Within 6 weeks of the date of this approval, a 2m high raised bund topped with a 2m high acoustic barrier shall be erected along the site's

boundary labelled X, Y and Z as presented on stamped approved drawing; Drawing No. 02 Rev 7 bearing the stamp dated 26 Oct 2018
Reason: To protect the amenity of neighbouring residents.

Condition 9: The barrier referred to in condition 8 shall be constructed of either masonry, timber panelling (Close lapped with no gaps) or of earth and shall have a minimum self-weight of 25 kg/m²

Reason: To protect the amenity of neighbouring residents.

Condition 10: The noise level from the facility with all plant and equipment fully operational shall not exceed the limited in Table 1 – Boundary of 24 Cranebrook Crescent – Noise limit with all plant and equipment fully operational taking place (Db LAeq 1 hour (inc. tonal penalty) at boundary of 24 Cranebrook Crescent - during the permitted hours of operation when measured at a distance of 3.5m from the façade of the appropriate residential property.

Reason: To protect the amenity of neighbouring residents.

The EH Officers are confident that there is no breach of these conditions, and the above conditions will carry forward to this new decision and will still provide the assurances that is needed for the residents for protection of amenity.

Councillor Carney declared an interest in planning application LA09/2023/1118/F.

Proposed by Councillor Mallaghan
Seconded by Councillor Varsani

To accept officer's recommendation for approval.

Councillor Cuthbertson said that he proposed a site meeting and whilst looking at site map, there seemed to be a lot of confusion over what is and what is not included in the red line and a number of sheds currently going up at the moment and felt that it would be useful to see it on site.

Proposed by Councillor Cuthbertson
Seconded by Councillor Robinson

To arrange a site visit so members can see for themselves the situation.

The SD: PI said that he wished to ask a very simple question and in terms of issues raised by the member, enquired what the difference would be if this application wasn't approved in terms of noise and noise protection, given that there is an existing approval already. Advice has been taken from the experts and there have been no concerns raised.

Councillor Cuthbertson said that from his reading of it, first of all planners had seemed fit to implement that condition back in 2016 to protect residents. There was also talk about an earth mound which he had seen when he was down at the playpark a few weeks ago and believed there was a condition in place. Although he did not hear the SPO reading it out tonight, there was a piece of ground close to the

Council playpark which was to be reinstated in grass, this does not seem to be the case and confusion over a number of different planning applications. If this condition now of cladding being removed from the walls of the building and work intensifies within the building its going to put at risk the noise to neighbouring residents.

The Chair advised that 2 proposals were put before members tonight;

Councillor Mallaghan's proposal was put to the vote to accept the recommendation:

For	8
Against	6

Councillor Cuthbertson's proposal was put to the vote to hold a site visit:

For	6
Against	8

Councillor Mallaghan's proposal was carried.

Resolved That planning application LA09/2023/1118/F be approved subject to conditions as per the officer's report.

LA09/2023/1139/F Site for dwelling in infill site at adjacent to 69A Kinturk Road, Cookstown for Mr Martin McVey

Members considered previously circulated report on planning application LA09/2023/1139/F which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/1139/F be approved subject to conditions as per the officer's report.

LA09/2023/1166/F Extension to existing school at Kilronan Special School, Ballyronan Road, Magherafelt for Education Authority

Members considered previously circulated report on planning application LA09/2023/1166/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn

Resolved That planning application LA09/2023/1166/F be approved subject to conditions as per the officer's report.

LA09/2023/1217/O Dwelling and garage on a farm at land adjacent to 30 Killyfaddy Road, Magherafelt for Mr Ian Brown

Agreed that application be deferred for an office meeting earlier in meeting.

LA09/2023/1323/O Infill dwelling and garage adjacent to and NW of 152 Caledon Road, Aughnacloy for Mr Lloyd Crawford

Members considered previously circulated report on planning application LA09/2023/1323/O which had a recommendation for approval.

Proposed by Councillor Graham
Seconded by Councillor Robinson and

Resolved That planning application LA09/2023/1323/O be approved subject to conditions as per the officer's report.

LA09/2023/1377/O Dwelling and garage under at 30m W of 153 Washingbay Road, Coalisland for Mr Philip Brady

Agreed that application be deferred for an office meeting earlier in meeting.

Councillor Kerr sought clarification on whether a deferral was previously sought as it was his understanding that the agent was in attendance to speak on the application.

Ms Doyle (HLP) advised that a deferral was requested in this instance and not a speaking request.

The Agents which were in the room advised that they were content that the application was deferred for an office meeting.

LA09/2018/0754/O Dwelling and garage at 20m W of 35 Moss Road, Ballymaguigan, Magherafelt for Christopher Cassidy

Ms McKinless (SPO) presented a report on planning application LA09/2018/0754/O advising that it was recommended for refusal.

The Chair advised that a request to speak in favour of the application had been received and invited Mr Cassidy to address committee.

Councillor Robinson left meeting at 6.02 pm.

Ms McKinless (SPO) said that it was her understanding that Mr Cassidy had already used his speaking rights on this application previously.

Ms Doyle (HLP) advised that the minutes for 4 September 2018 – LA09/2018/0754/O – the Head of Development Plan presented report, the Chair had advised the committee a request had been received and invited Mr Cassidy to address the committee, and he did so.

The SD: PI stated that he had some sympathy for Mr Cassidy here, but he kept playing these games and doing this stance, how many planning applications and enforcement notices in relation to this site has occurred and each time it ends up

being the same. The Planning Appeals Commissioner has now given up several decisions on this site, all of which has went against Mr Cassidy, he is now claiming it is infill on the basis of a portacabin. The SD: PI advised that a portacabin in not a building, same as a caravan and this was not an argument that was work pushing as it was only a temporary structure. The second part of Mr Cassidy's argument is that Council had taken temporary structures in the past which was true, but have watched attentively with Planning Appeals as this has been an issue across Northern Ireland, like a sheep shelter becoming a building and only something a farmer puts there to shelter sheep which can be moved around a field. The SD: PI believes that this was not a building, it will change rural character because Planning Appeals Commission has told us that. He said that equally he would not be duly concerned through the planning process of the development plan if this land was included in the settlement of rounding of for the other side of the road. It was his view if committee moved to approve this application, Council would be brought into disrepute for 2 reasons: firstly, the history of endless appeals and the situation hasn't changed; and second is in relation to the fact we had refused an application already at this stretch of road and site meeting also and felt that the committee may not have much option.

The SD: PI enquired if Mr Cassidy wished to proceed to Planning Appeal yet again, but his advice would be to wait as the plan is at a critical stage of its development and the situation could possibly change as a result where we are going on these types of things. He said that in his view the wisest decision would be to ask the committee to hold it.

Mr Cassidy felt he was being treated completely different to everyone else here tonight.

The Chair said that it was deemed that Mr Cassidy had already spoken on this application in the past.

Mr Cassidy said that he was off the opinion that he did not speak on this application previously.

The Chair advised that it was evident in the minutes dated 4 September 2018 that he had spoken and was also uploaded to the website.

The SD: PI said that he wished to be fair to everybody and suggested deferring this application for one month whilst agreement is reached between both parties through exchange of records of minutes in relation to this matter.

The Chair felt that this was a wise decision as it would be a serious matter if a speaker had not previously spoken wasn't given the opportunity to do so and alternatively if speaking requests had been used in the past this could set a precedent and felt there was an onus on the committee to get it right.

Proposed by Councillor S McPeake
Seconded by Councillor Black and

Resolved That planning application LA09/2018/0754/O be deferred for one month to exchange confirmation of speaking rights used.

Councillor Robinson returned to the meeting at 6.10 pm.

LA09/2019/0179/F Continued use of the land and factory without complying with condition 12 of M/2011/0126/F – seeking variation of opening hours condition Monday – Friday from 6am – 8pm at lands 70m S of 177 Annagher Road, Coalisland for DMAC Engineering

Mr Marrion (SPO) presented previously circulated report on planning application LA09/2019/0179/F which had a recommendation for approval.

Councillor McFlynn advised that this factory was approved with condition 12 attached for operating hours and according to the report there is 37 objections made in regard to operating hours. The member said that it was very clear the DMAC are continually abusing the condition and would not be happy to approve the recommendation to extend the operating hours. The member enquired if there was any consideration given to the residents who were living locally there, she said that this was unfair to the elderly and young families as this meant they were going to be up from 5.30 am to facilitate the factory which is beside them. The member felt that it would be unfair for the committee to overturn the decision on the opening hours being extended.

Councillor McFlynn proposed to refuse the application to extend the opening hours.

The Chair advised that a request to speak against the application had been received and invited Mr Hughes to address the committee.

In response to a query regarding previous speaking rights being used by the objector or his representative, Ms Doyle (HLP) advised that no representative had been made. In August 2023 there was input from Mr Cassidy and Mr Grainger on behalf of DMAC but none for objector.

Mr Hughes advised that he found it difficult to understand that no records has been held given the fact that he attended a site meeting at a neighbours house and also with representatives from Environmental Health. He said that he was making this representation on behalf of local residents objecting to this planning application. This operation has already worked outside planning condition 12, DMAC has never adhered to condition 12, this was under investigation with Environmental Health as DMAC could not keep fumes inside their buildings the same as Northway Mushrooms not keeping the odour inside their factory boundary. A number of objections have been made on this application as it fails adequately due to the fumes and odour not being confined to one site. Numerous complaints to Environmental Health have been made regarding the fumes and odours which had been witnessed by them and the impact this is having on local residential homes. He said that it this has breached resident's human rights as laid out in the European Court of Human Rights as it interferes with residents enjoyment of their properties. Mr Hughes advised that if this planning application is approved that residents would be taking this case to full judicial review.

The SD: PI said that he wished to respond to a few things, as a committee if a person threatens with judicial review, we need to consider everything that needs considering and come to a decision which is deemed reasonable. He said that he was conscious that for over a decade he was between parties on either side and was not loved by either. Members who have been on this committee for a long time would recall that this was one of the first applications brought before committee. When decision was made then a lot of conditions were placed on the application to protect residents, but we had to bear in mind that this was a business operation which was accommodating the economy in Mid Ulster, however no-one was a saint here and was aware of issues arising in relation to drainage, moving rubble, fumes and chimneys etc, and to some extent the objectors concerns which relate to fumes which is coming across quite clearly, but the decision here is not about fumes, it's about hours of operation, we have enforced conditions and will continue to look for court action if this is not adhered too. Why would a business not be allowed to go in and clean up overnight like shops and factories etc, assumption is all or nothing here, what he was reading was employees will go in to prepare somethings from 6am and they were very aware of what and what not to do. Work will be contained within the buildings itself, to clean equipment and mix paint, sprays etc and doors remaining closed and no activities in the yard, no extractor fans and being quite clear on controlling vehicles on site. The SD: PI advised that conditions were put on an application in order to facilitate the approval of an application if not opposed, in this instance we are not removing a condition but placing a lot other constraints.

Proposed by Councillor Mallaghan
Seconded by Councillor Kerr

To approve the application.

The Chair advised that 2 proposals were in front of members tonight, one in favour of and one against approving the application.

Councillor Mallaghan advised that on a point of order if Councillor McFlynn did not get a seconder for her proposal, do committee need to proceed with a vote on this application.

The Chair advised that as no seconder had come forward for Councillor McFlynn's proposal to refuse the recommendation, the application be approved.

Councillor McFlynn wanted it recorded that she would not be supporting the recommendation for approval and would be opposed to the working hours being extended to 6am, solely on the provision that DMAC have continually not adhered to Condition 12 through the entirety the whole time they have been operating.

Resolved That planning application LA09/2019/0179/F be approved subject to conditions as per the officer's report.

LA09/2021/0480/F Dwelling and domestic garage within cluster at 75m W of 11 Grange Road, Cookstown for Mr Paddy Donnelly

Members considered previously circulated report on planning application LA09/2021/0480/F which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McFlynn and

Resolved That planning application LA09/2021/0480/F be approved subject to conditions as per the officer's report.

Councillor Black left the meeting at 6.34 pm.

LA09/2021/1672/F Change of house type and relocation of dwelling and domestic garage from approved M/2013/0414/F and domestic garage at approx. 100m N of 34 Ferry Road, Coalisland, Dungannon for R Patrick and Mrs Lisa Trainor

Mr Marrion (SPO) presented a report on planning application LA09/2021/1672/F advising that it was recommended for refusal.

Councillor Mallaghan said that he happened to notice a few weeks ago that a new application had been received and enquired if this was on the same site.

Mr Marrion (SPO) advised that a new application was received to retain the existing empty building on the site.

Proposed by Councillor S McPeake
Seconded by Councillor Robinson and

Resolved That planning application LA/2021/1672/F be refused.

LA09/2022/0714/O Dwelling and domestic garage at 120m SW of 119 Mullaghboy Road, Bellaghy for Mr Peter Doherty

Members considered previously circulated report on planning application LA09/2022/0714/O which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor S McPeake and

Resolved That planning application LA09/2022/0714/O be approved subject to conditions as per the officer's report.

LA09/2022/1367/F Two storey dwelling and garage at 10m N of 56 Quarry Road, Knockcloghrim for Gerard Ward

Members considered previously circulated report on planning application LA09/2022/1367/F which had a recommendation for approval.

Proposed by Councillor D McPeake
Seconded by Councillor Clarke and

Resolved That planning application LA09/2022/1367/F be approved subject to conditions as per the officer's report.

LA09/2023/0025/F Retention of existing shed for mix of domestic storage and agricultural machinery adjacent to 26A Brookmount Road, Ballinderry Bridge, Cookstown for Francis Rocks

Ms McKinless (SPO) presented previously circulated report on planning application LA09/2023/0025/F which had a recommendation for approval.

Ms McKinless (SPO) brought to members attention late objection on Item 6.7 of previously circulated addendum. She advised that the late objection raised 3 objections which may need clarification.

The SPO said that within her report she had deemed it acceptable in terms of policy but this late objection had raised three points.

1. Dormancy of the Farm Business

DAERA were consulted regarding the applicant's farm details and they confirmed that the applicant was indeed allocated a business ID number in 2005 but was now dormant. The objector stated as DAERA has classified the business as dormant, this now means that the farm business cannot be considered currently active or established. He also contends that there was a lack of evidence presented to demonstrate farming activity.

The SPO would advise members that the applicant has provided conacre agreements to the planning department which is considered as evidence of activity. At the deferred office meeting which the applicant attended with herself and Dr Boomer, advised that he was heavily involved in the upkeep of the lands, the SPO had carried out a site visit and was inside the shed and there was evidence of a tractor and small items of machinery. It was also important to note that the shed was only partly used for agricultural storage and part for domestic storage and was considered as adequate evidence to provide that the farm was currently active and established.

2. Affidavits and Conacre Agreements

The applicant submitted conacre agreements and titled them as affidavits and within her report she had agreed with the objector that these were not affidavits as they were not signed in the presence of a solicitor. Members should note that policy does not specify that an affidavit or any type of legal document is deemed necessary to prove an active or established holding as the planning department does accept a range of evidence in order to make a balance in an informed recommendation. Not every conacre between farmers will use a same template and agreement provided with this application was typical of the agreement that planning usually accept.

3. Statutory Responsibility of Planning Officers

The objector stated that he had concern about the decision being made on a robust interrogation of supporting evidence. The SPO advised members that the case was initially assessed by a case officer and discussed in detail between herself, Dr

Boomer, the applicant and his advisors where additional information was requested and submitted and fully considered. The SPO said that she had visited the site and was inside the shed in question and all material planning issues raised by the objector have been fully considered and referenced within the report.

Ms McKinless (SPO) said that in her opinion there has been a proper and full consideration of all the evidence and remains her recommendation to members to approve this application subject to the conditions as set out within her report.

Councillor Black returned to the meeting at 6.40 pm.

Proposed by Councillor McFlynn
Seconded by Councillor D McPeake

Resolved That planning application LA09/2023/0025/F be approved subject to conditions as per the officer's report.

LA09/2023/0251/F 2 storey dwelling with 1½ storey garage attached via carport at 50m E of 55 Killycanavan Road, Dungannon for Eugene Devlin

Members considered previously circulated report on planning application LA09/2023/0251/F which had a recommendation for approval.

Proposed by Councillor Kerr
Seconded by Councillor Clarke and

Resolved That planning application LA09/2023/0251F be approved subject to conditions as per the officer's report.

LA09/2023/0629/O Gap site for dwelling and domestic garage at lands approx. 60m NE of 45 Derrytresk Road, Coalisland for Mary Daya

Members considered previously circulated report on planning application LA09/2023/0629/O which had a recommendation for approval.

Proposed by Councillor McFlynn
Seconded by Councillor Kerr and

Resolved That planning application LA09/2023/0629/O be approved subject to conditions as per the officer's report.

P031/24 Receive Report on the Councils consideration of the launch of the Consultation on Onshore Petroleum Policy

Mr Bowman, Head of Strategic Planning (HSP) presented previously circulated report to provide members with information regarding the Department for the Economy's consultation regarding Onshore Petroleum Licensing Policy and advise of our response.

The HSP outlined the options which were to be considered in point 3.10:

- 1) Option 1 – Status Quo – Do nothing
- 2) Option 2 – Change from open door policy to licensing round in defined areas
- 3) Option 3 – Moratorium and eventual legislative ban on exploration or production of unconventional hydrocarbons; or
- 4) Option 4 – Moratorium and eventual legislative ban on all forms of onshore petroleum exploration and production.

The HSP advised that the DfE's preferred option would be Option 4.

Councillor J Buchanan left the meeting at 6.40 pm and returned at 6.45 pm.

Councillor Mallaghan left the meeting at 6.48 pm and returned 6.50 pm.

Councillor Varsani said that by reading through the report and noting that the Department has done previous reports in Peru and other parts of the world, felt that it was a little dystopian reading through it when considering the areas which may have potential for petroleum onshore. This would include Lough Neagh area including the bed and areas of beauty in Fermanagh and West Tyrone. The member said that although the report is very detailed, she felt that Council could be a little bit stronger in saying that we categorically would wish to move to Option 4 which is absolutely an outright ban. The member stated that she was almost appalled that green energy options were not being discussed and almost like a relic considering this report and would strongly like to recommend Option 4.

Councillor Kerr concurred with Councillor Varsani's comments on approving Option 4 as many other Councils are supporting a ban on fossil fuel extraction. The member said that this was not just fracking and if we were serious about climate change, we should not be starting a new industry here, we should be rolling out community renewal energy, an alternative green energy to replace fossil fuels. He highlighted that one of these potential applications has been earmarked for Lough Neagh which we do not need on top of the many issues Lough Neagh is currently experiencing. If such an application was allowed to go ahead it would totally decimate the many positive aspects attached to Lough Neagh. The member said that he would be happy to second Councillor Varsani's proposal to proceed with Option 4.

Councillor Clarke said that he had listened attentively to the discussion and would be happy to support the proposal made by Councillor Varsani to proceed with Option 4.

The Chair said that he listened to the comments and asked that the response be strengthened up to reinforce Option 4.

Proposed by Councillor Varsani
Seconded by Councillor Kerr and

Resolved To agree the contents of the report and that Option 4 be submitted as the Council's response to the Consultation.

P032/24 Receive Report on Review of SPPS on the Issue of Climate Change

Ms McCullagh, Principal Planner (PP) presented previously circulated report to provide members with information regarding the Department for Infrastructure's consultation regarding 'The Review of the SPPS on the issue of Climate Change' and advise of our response.

The Chair said that this was a good report and was interesting to hear the last piece within the report where it refers to rural dwellings and see the figures where there is a sharp decrease from 2006 to where it currently is now. He said that it was evident that there was no danger of overpopulating the countryside with the rate of development and was the first time he had seen a stark rate put to it.

The Chair said that there was a huge focus on flood risk, buildings and floodplains etc and enquired if any work had been done on alternative measures in area which have a potential to become flooded in the long term and asked if there were any experiences we could learn from if an applicant was to put in mitigating measures, could this be worked around.

The Service Director of Planning (SD: PI) advised that this would be on 2 levels. The way policies work at present is that there is a distrust on individual applications of mitigating measures with the reason being because of the degree of certainty being so small and the potential to shift flood waters onto someone else. He said that mitigation can be successful and best example would be Holland where they pump out water below sea level. If we look at areas such as Portsmouth in England where they have taken a huge area of the coast and deliberately keeping it clear due to the risk of tidal surges and if water levels were to rise if predicted, it has to go somewhere, and this is already catered for. The SD: PI believed that the current position being adopted regionally here is not robust enough and would be really worried about flooding happening more frequently due to the predictions on impact of global warming and everyone seems to put it off because they may think it will happen down the line in 50 – 80 years' time. If correct it could mean a lot of things like industrial estates could be flooded and a lot of housing particularly around the Magherafelt area and Lough Shore area could experience flooding which has never experienced flooding before. Within the report we need to look at mitigation rather strategically rather than at an individual house level, thus protecting people who already live there where flooding may occur and felt that this can be accomplished whilst saving us from sterilising lots of land from potential development. We are talking about a long-term vision here.

Councillor Clarke advised that he was very interested in this particular element and had read and has seen that a good bit of work has been done on it but wished to raise a few points. The member referred to Loughs and how a lot depends on how we manage the outflow of water, a few years ago there was serious flooding in Fermanagh and they didn't allow the Lough to be lowered quick enough so the water levels were retained very high and when a heavy rainstorm emerged a lot of flooding occurred. The member said that it was his understanding that there were controls on the Lower Bann and if these controls were activated on time before the Lough fills up there would be capacity to protect this. The member said that we were fortunate to

have in our possession bogs, which is very important in water storage, bogs which have been cut over and damaged do not work as a sponge to soak up for periods of heavy rainfall, many of these bogs are hundreds of acres and surfaces restored to where they were they would make a massive impact on stopping water flowing into rivers and loughs all at one time. The blanket bog can be there like a sponge and could be days and weeks before this water reaches the water courses. The member felt that these two things could be beneficial if activated to be prepared for heavy rainfall by ensuring that the lough levels are not too high when the heavy rainfall comes and the restoration of our boglands which could also make a huge difference.

The SD: PI in response to a query regarding who would be responsible for activating the controls advised that responsibility at present would lay with DfI and felt that on those both points Council should be pushing for the multi-agency approach rather than from one single department. The SD: PI felt that the member raised a good point in regard to bogs, not only for flooding but also the best way for capturing carbon and Mid Ulster has led the way in terms of some of the actions which has been taken to restore boglands when constructing the observatory at the Dark Skies initiative. We have also served enforcement notices to stop peat extraction and a strong comment would be very important.

Councillor Varsani said that this was a very detailed report with a lot to digest and reflect upon. The member said that one thing which occurred to her was that there didn't seem to be that necessary crossover, although carbon and energy crisis was looked at, they didn't seem to look at the issues exploring where best to locate wind farms, possibly for hydro systems within particular areas where they might be placed. It may be that there could be some exploration between departments, in planning we have looked at it in terms of transport planning or buildings but there should be planning for where best to locate alternative sources of energy and felt that this could be a gap within the report.

The Service Director of Planning (SD: PI) said that a letter could be included with the report to state that the members also raised the following points. He advised that windfarms may have been missed out because planning was involved in another consultation on wind energy and again like everything else it was about what you cannot do rather than about a public investment. It was quite clear when you come to wind energy the important elements are never considered like land and farms and thinking that this can be solved through single wind turbines sited beside someone's home only leads to problems. The only way sustainable energy can be achieved successfully is working in partnership to identify the best locations and acquire them and there was a need to see this done in a National Plan for Northern Ireland rather than relying on a policy approach.

Councillor Kerr said that unfortunately he had to leave the meeting early but wanted to wish Dr Boomer well in his retirement and hoped that he didn't miss the members too much.

Councillor Kerr left the meeting at 7.12 pm.

Councillor D McPeake advised that it was his understanding that the sluice gates in Toome were controlled by Rivers Agency who raise and lower the gates and keep a flow on the River Bann.

Councillor Mallaghan referred to remarks from the SD: PI and how he probably had spent a lifetime at this planning a town, phase 1, phase 2 development plan and green areas etc and felt that this was a way we were going to have to look in terms of renewable energy going forward. The member stated that there were too many examples of where wind turbines were put into places and then bring the infrastructure miles and miles to get there in order to draw the power back. Similarly what will be next will be the wide expansion of solar fields, with one prime example being Belfast International Airport where they are proudly portraying their renewable energy, but their solar fields are 5 to 6 miles up the road from the site, but if this was looked at in a rational way, lands would be zoned next to the industrial estates and zoning lands to big energy using properties like airports and ports to ensure that they were being kept close together. The member said that by doing that zoning at an early stage would make it easier for planning process for someone going forward if they wished to change their land use and felt that this should be included in terms of thinking going forward.

Proposed by Councillor S McPeake
Seconded by Councillor Mallaghan and

Resolved To note the contents of the report and agree that the Service Director of Planning can reply as such to Dfl.

P033/24 Receive Report on the Lessons from the last 10 years of Planning

Dr Boomer, Service Director for Planning (SD: PI) presented previously circulated report to examine what lessons what can be learnt over the last 10 years from the Performance of the Planning Department and identify any key failings in the system.

The SD: PI stated that a key theme in local government currently is moving from transition to transformation. He provided members with an update on planning performance and statistics, covid pandemic matters in relation to backlog, ability to retain staff, agility, trainee planner program and Local Development Plan

The SD: PI updated members with a brief overhead view on:

- Applications Received
- Applications Decided
- Applications Approved
- Applications Live
- Local Applications Withdrawn
- Enforcement cases Received
- Enforcement 70% conclusion times (target 39 weeks or less)
- Enforcement Prosecution
- Enforcement Convictions

Councillor McConnell left the meeting at 7.40 pm.

The Chair thanked the SD: PI for his very informative update and said that we have come a long way in the last 8 – 10 years and was remarkable and a lot of stuff to be proud of when members see it outlined in the cold light of day.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That it be agreed:

- a) That the Head of Strategic Planning follows up with the representation made to the Public Accounts Committee on 22nd June 2022 on the adequacy of the Plan System.
- b) That the Committee note the lessons learnt to date.

The Chair said that now might be an opportune time to go into confidential business as he was aware of a speaker waiting to raise his planning application in confidential business.

Councillor Mallaghan stated that the other two items were short in terms of what is says and they have already been through the scheme of delegation and would be happy to propose the two following reports for approval if there was a seconder and if further discussion was needed at a later stage, then this can be accommodated.

P034/24 Receive Report on Performance Improvement Measures

Ms Doyle, Head of Local Planning (HLP) presented previously circulated report to present with members the new measures to improve the performance of the Planning Department in Mid Ulster District Council.

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved To agree to the introduction of a validation checklist as a tool to improve the processing times of planning applications.

P035/24 Receive Report on Organisation of the Planning Department and Scheme of Delegation for Planning

Dr Boomer, Service Director for Planning (SD: PI) presented previously circulated report to request that members agree the structure, responsibilities and accompanying Scheme of Delegation for Planning functions for Financial Year (April 2024).

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved That Members of Planning Committee and Policy & Resources Committee agree that the revised scheme of delegation and instruct the Service Director to seek approval of the Department before it

comes into effect and is published on the Council's website in April 2024.

Matters for Information

P036/24 Planning Committee Minutes of Meeting held on 6 February 2024

Members noted previously circulated minutes of Planning Committee held on 6 February 2024.

Live broadcast ended at 7.55 pm.

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Mallaghan
Seconded by Councillor Clarke and

Resolved In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P037/24 to P41/24.

Matters for Decision

P030/24 Planning Applications for Determination (continued)
P037/24 Receive Enforcement Report
P038/24 Hybrid Meetings

Matters for Information

P039/24 Planning Committee Confidential Minutes of Meeting held on 6 February 2024
P040/24 Enforcement Cases Opened
P041/24 Enforcement Cases Closed
P042/24 Enforcement Live Case Load
P043/24 Any Other Matters

P044/24 Duration of Meeting

The meeting was called for 5pm and concluded at 8.35 pm.

Chair _____

Date _____

Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Dungannon and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting.
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute.
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item.
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.

- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any proceedings (whether now or later) or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 05 March 2024

Additional information has been received on the following items since the agenda was issued.

Chairs Business – DFI Consultation on stopping up/abandonment of Killybracken Road

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.5	Late info on behalf of Objector LA09-23-0238-F	Members to Note
5.18	Late Objection – LA09-23-1069-F	Members to Note
5.19	Decision for LA09/2016/0420/F	Members to note conditions 2,3, 6, 7, 8, 9 & 10
6.1	Certificate of lawfulness	Members to note
6.7	Late Objection LA09-23-0025-F	Members to note