



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 provide 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:



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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):	

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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 under	VALID APPLICATION RECEIVED	
I/2013/0375/F	314m east/north east of 40 Gortagam	Proposed erection of a wind turbine with a 30m hub height	PERMISSION GRANTED	13.05.2014
I/2014/0394/F	210m east/south east of 40 Gortagam	Relocation of previously approved wind turbine application	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/2014/0394/F	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>	
Ref ID: I/2014/0394/F	

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

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Status: Submitted

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Status: Submitted

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Drawing No.
Type:
Status: Submitted

Drawing No. 01
Type: Site Location Plan
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

Drawing No. 02
Type: Site Layout or Block Plan
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



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: <p>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.</p>	
Summary of Consultee Responses:	
Characteristics of the Site and Area <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</p>	

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</p> <p>The Owner / Occupier 14 O'Neill Park, Tullyhogue, Cookstown, Tyrone, BT80 8UE</p> <p>The Owner / Occupier 3 Berkley Square Tullyhogue Cookstown Tyrone BT80 8UD</p> <p>The Owner / Occupier 2 Berkley Square Cookstown Tyrone BT80 8UD</p> <p>The Owner / Occupier 54 O'Neill Park Tullyhogue Cookstown Tyrone BT80 8UE</p> <p>The Owner / Occupier 4 Berkley Square Tullyhogue Cookstown Tyrone BT80 8UD</p> <p>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</p> <p>Environmental Health Mid Ulster Council-Substantive: TBC</p> <p>NI Water - Multiple Units West-Substantive: TBCResponseType: FR</p> <p>DFI Roads - Enniskillen Office-Substantive: TBC</p> <p>Environmental Health Mid Ulster Council-</p> <p>Environmental Health Mid Ulster Council-Planning response (2).pdf</p> <p>DFI Roads - Enniskillen Office-Roads Consultation outline approval.docxRS1 Form a (1).doc</p> <p>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
<p>Summary of Issues:</p> <p>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 12th 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.</p>	
<p>Summary of Consultee Responses:</p> <p>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.</p>	
<p>Description of Proposal</p> <p>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</p>	

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

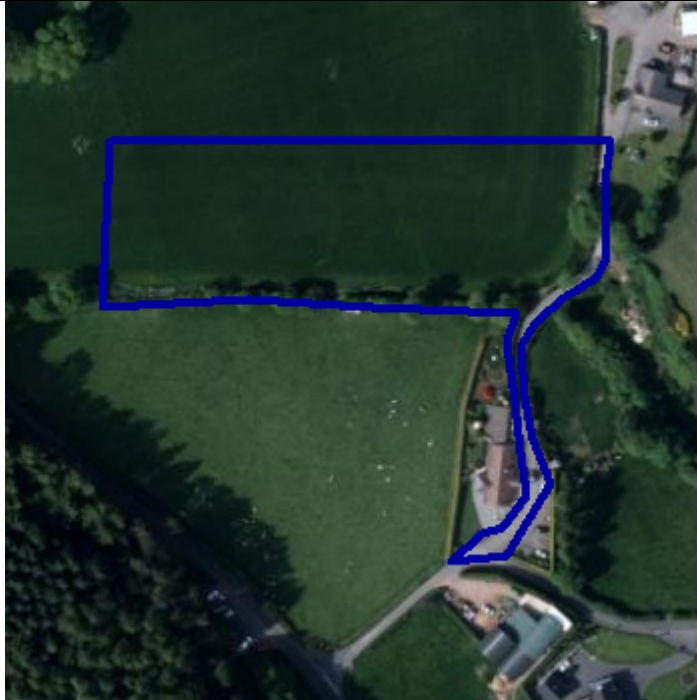


Development Management Officer Report Committee Application

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

Building on Tradition – A Sustainable Design Guide for Northern Ireland Countryside

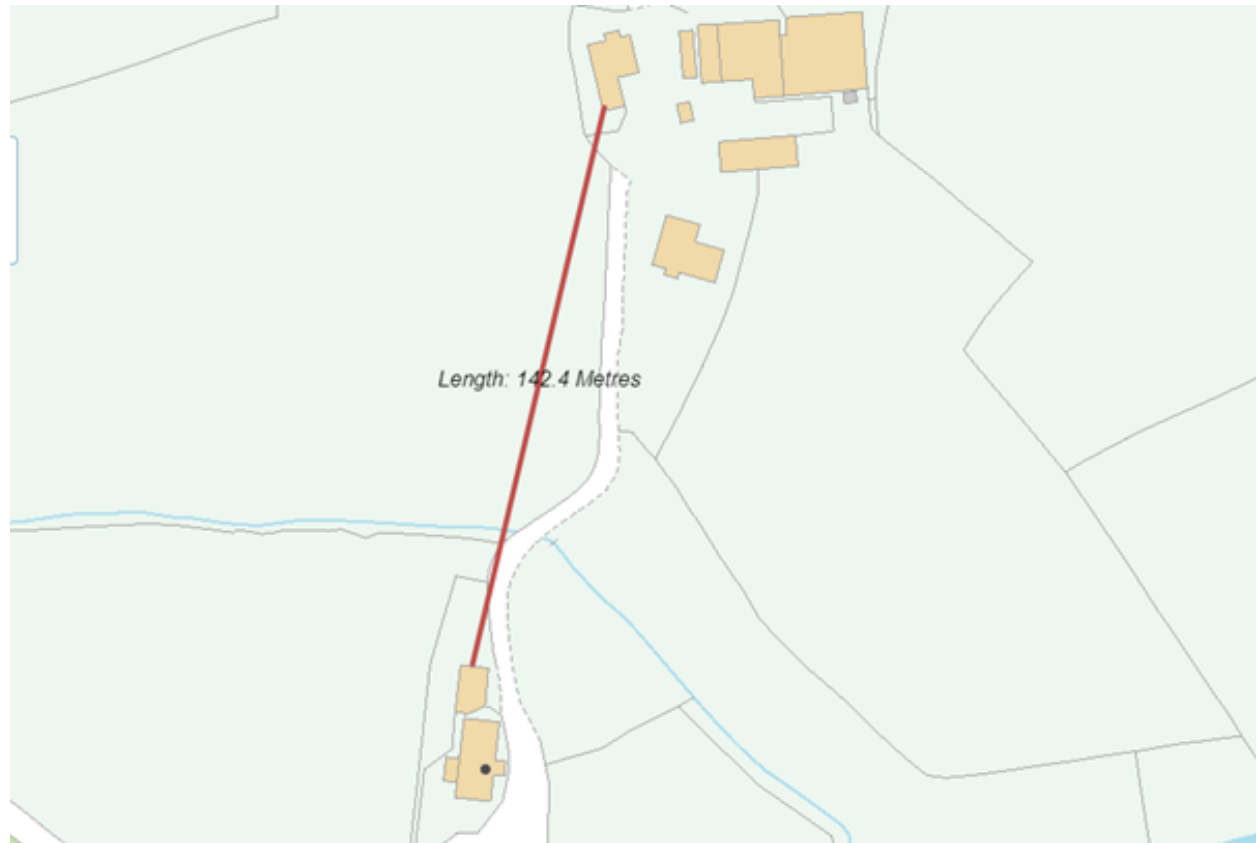
Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in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

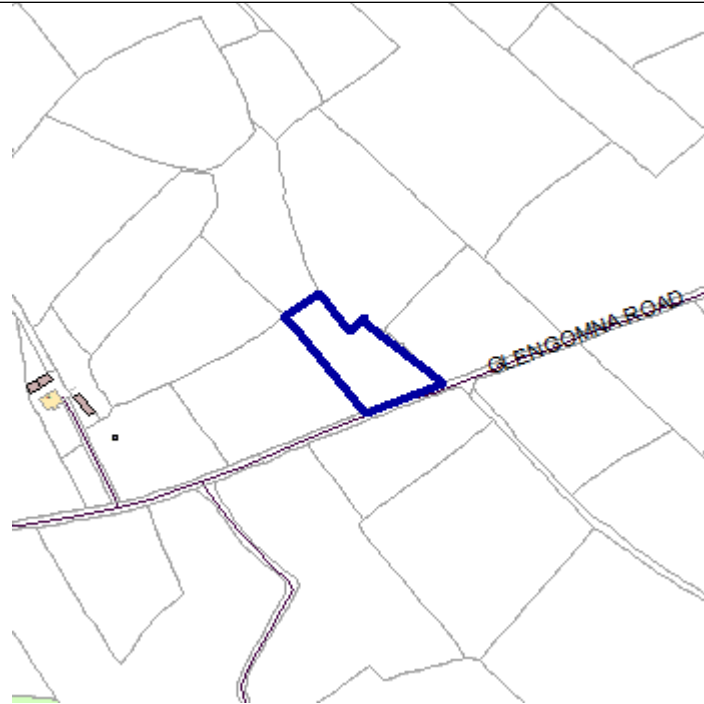


Development Management Officer Report Committee Application

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: <p>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:</p> <p>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.</p> <p>It is accepted that the proposed however does comply with CTY 13 and CTY 14 of PPS 21 at this outline stage.</p>	

Case Officer Report

Site Location Plan



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Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	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.

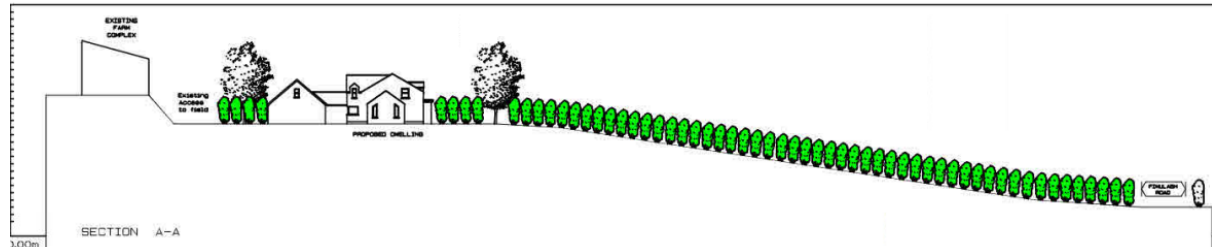


Fig 5 – indicative section showing the house on site.

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

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.

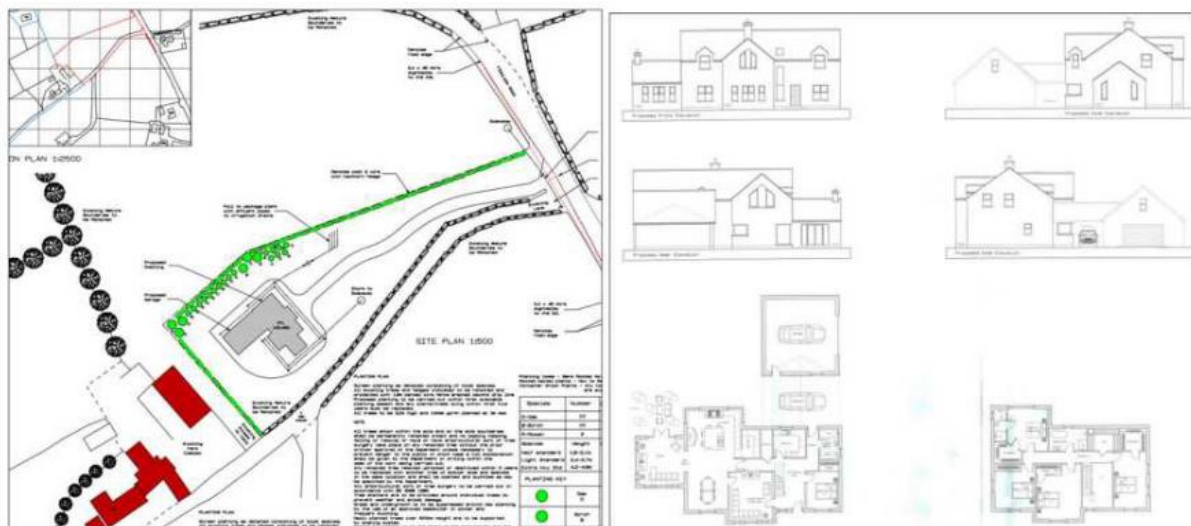


Fig 5 & 6: Proposed site layout; and floor plans and elevations of dwelling including garage, respectively.

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>	

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.

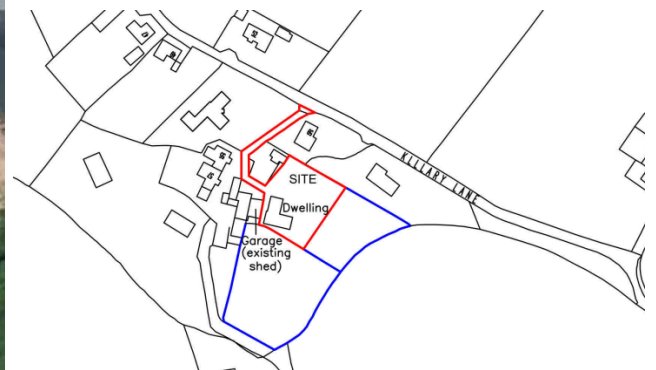


Fig 2 –proposed site, Fig 3 - concept

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:

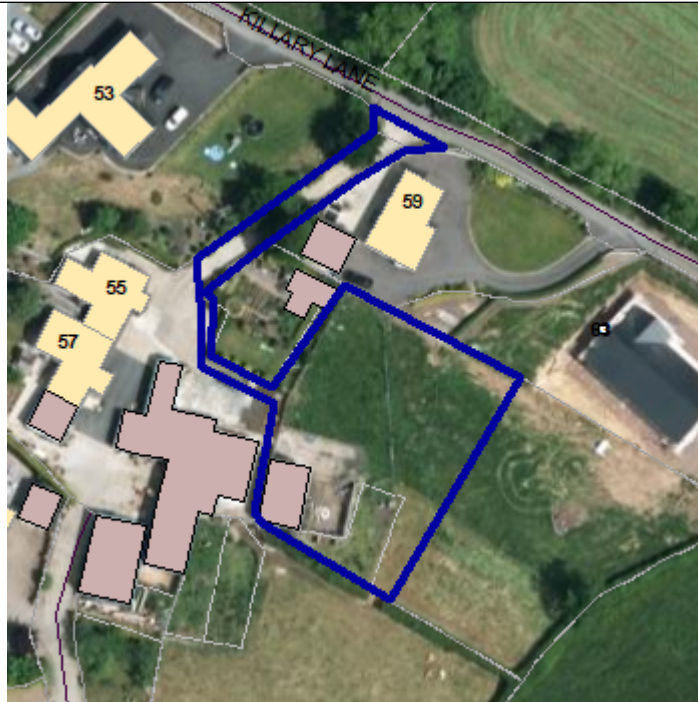


Development Management Officer Report Committee Application

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