



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

Mid-Ulster Local Planning Office

Mid-Ulster Council Offices

50 Ballyronan Road

Magherafelt

BT45 6EN

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2015/0523/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI	<b>Location:</b> Approximately 80m South East of 60 Desertmartin Road, Moneymore
<b>Applicant Name and Address:</b> Mr Robert Carmichael C/o.agent	<b>Agent name and Address:</b> TC Town Planning Town & Country Planning Consultants 84 Ashgrove Park Magherafelt BT45 6DN
<b>Summary of Issues:</b> PPS3 Protected Route policy exception. Requirement for legal agreement between DFI / applicant.	
<b>Summary of Consultee Responses:</b> No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 3 km north of the village of Moneymore in the open countryside as defined by the Magherafelt Area Plan 2015. The site is adjacent to and connected with an existing farm complex and associated outdoor activity centre, known as 'The Jungle'. The proposed site is located on the eastern side of the Desertmartin Road (A29), a protected route. The site is accessed directly from the Desertmartin Road. A hardstanding has been created on the site and is being used as a car park. To the north of this is a footpath leading to a tunnel under the	

road providing access to the facility. This tunnel was designed for the use of moving cattle around the farm. There is a small stream located to the north of the car park.

Views of the site are achievable when travelling along the A29 in both directions, however the existing roadside vegetation softens the landscape to some extent. The surrounding area is characterised by a mixture of single dwellings and farm complexes. An existing lime quarry is located approximately 600 metres to the east of the site. The surrounding land generally slopes upwards from the main road in a westerly direction, with land to the east of the road flatter.

### Description of Proposal

The proposal is for 'Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI'. The proposed car park is laid out differently to what is currently in place, with a more formal layout proposed.



### Deferred Consideration:

This application was presented before the Planning Committee with a recommendation to refuse on 6 June 2017 where it was agreed by members to have a site meeting so that they could look at the situation for themselves on the ground. The site meeting took place on 15 June 2017.

Following the site meeting we have received a number of reports from the agent in support of the planning application. These have been considered both by myself and by DfI Roads. The applicant wants to be able to use the underpass that links the car park to The Jungle as a permanent means of pedestrian access and has suggested taking control of the underpass from DfI Roads. This underpass was built for the purposes of moving livestock and it had been argued by the applicant that humans also need to use the underpass when moving livestock.

An amended suite of plans was received dated Nov 2018 within which the proposal has now been amended to relocate the current unauthorised access to the existing car park further south along the frontage towards Moneymore, with two other existing access (the current unauthorised access and an access to the farm yard opposite) to be permanently closed off, the logic being that the provision of this new access will be compensated for by the closing of these two and making the proposal more acceptable as an exception to Policy PPS3 relating to Protected routes outside settlements and reducing the likelihood that pedestrians will be persuaded to cross the busy main road. Underpinning this approach has been the need to secure a legal agreement between DFI and the applicant for the use of the underpass to facilitate visitors to use this to access the main jungle complex. It has been a consistent position of the Council that no decision on this application would be positively made until such times as this agreement has been signed and agreed. I can confirm that this agreement has now been legally completed between the parties.

Members may recall that the PAC approved a Certificate of Lawfulness relating to use of the underpass. That decision dated the 8<sup>th</sup> Nov 2019 (2019/E0008) relating to the Non-determination of a CLUD (Certificate of Lawful use / Development) at the Jungle NI, Desertmartin Road, Moneymore.

The appeal site comprised an underpass below the main A29 road which links two parts of what the Commissioner refers to as a substantial farm holding. The underpass was constructed in or around 2000 to facilitate the safe movement of livestock.

Key to the Commissioners decision in this appeal was the notion of the extent of the 'planning unit'. Both parties to the appeal were provided the opportunity to comment on this matter. The Councils view was that the planning unit for the Jungle was entirely on the western side of the road (focussed around the existing farmyard etc). The commissioner, following his site visit, and in considering the evidence has concluded both the eastern and western parts of the holding comprise a single unit of occupation. He found that it was not persuasive that farmlands on the eastern side of the road is in a different planning unit to those farm buildings and yard on the western side. It was therefore reasonable to conclude that the entire holding comprises one planning unit with a mixed agricultural and recreation / training use.

In concluding the above position, it follows that it would not have been a breach of planning control for authorised outdoor recreational or training activities based on the holding to be carried out anywhere. The Commissioner goes on to observe chain saw courses, the maize field used with Halloween events and evidence provided about quad bike courses and llama trekking which it is referred to 'have extended into the eastern part of the holding'. Any use of the underpass to facilitate such activities would therefore have been lawful.

Notably, At Par. 20 of his decision the Commissioner is quite clear that the current unauthorised car park (subject to a current planning application) does not form part of his decision relating to the use of the underpass.

In allowing the appeal the description has also been modified to state the following:

'Use for pedestrian access ancillary to agricultural and recreational or training uses lawfully carried out on the land shown outlined in blue on the attached plan annotated PAC1 (excluding the fields marked A,D,E and F). For the avoidance of doubt, this did not include use in association with car parking on the eastern side of the A29 Desertmartin Road.

Whilst being mindful of this decision, members should pay regard to the wider intensification and any associated increased risk associated with the use of the underpass now being sought by this application.

For the purposes of reinforcing the Policy tests, Policy PPS3 states that for protected routes outside settlements that

**Annex 1 – Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking Policy AMP 3 Access to Protected Routes (Consequential Revision) Other Protected Routes –**

Outside Settlement Limits Planning permission will only be granted for a development proposal involving access onto this category of Protected Route in the following cases:

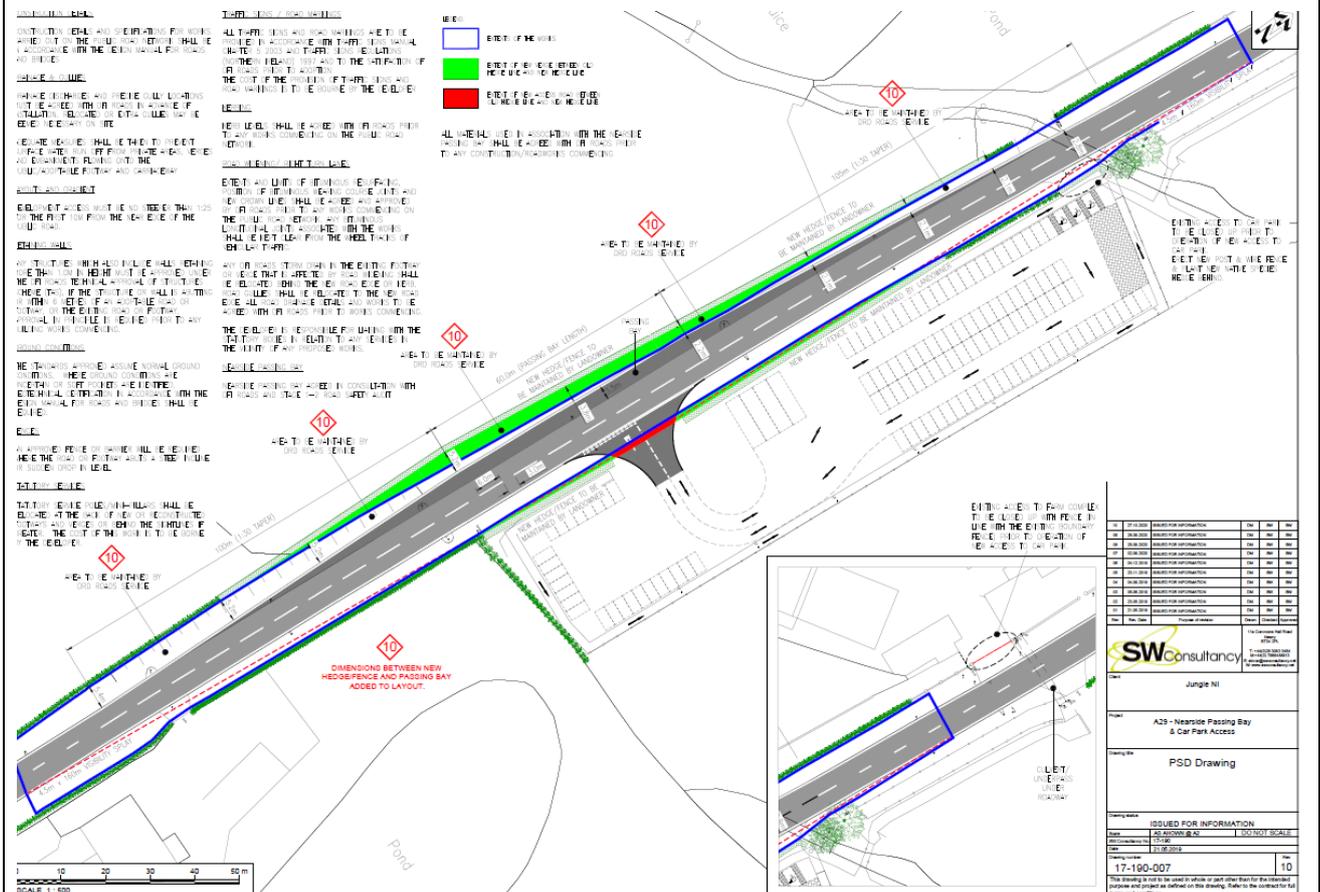
(a) A Replacement Dwelling – where the building to be replaced would meet the criteria set out in Policy CTY 3 of PPS 21 and there is an existing vehicular access onto the Protected Route.

(b) A Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

(c) A Dwelling Serving an Established Commercial or Industrial Enterprise – where a dwelling would meet the criteria for development set out in Policy CTY 7 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

(d) Other Categories of Development – approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

Access arrangements must be in accordance with the Department’s published guidance. The remainder of Policy AMP 3 as set out in the October 2006 Clarification, including the justification and amplification, remains unaltered.



(agreed Private Streets Determination)

The design and layout of the car park has been amended to ensure the rural character is also not impacted upon on to a damaging extent, thus satisfying. To this extent the following policy test is met:

**Policy AMP 9 Design of Car Parking**

The Department will expect a high standard of design, layout and landscaping to accompany all proposals for car parking. Planning permission will only be granted for a proposal where all the following criteria are met:

- (a) it respects the character of the local townscape / landscape;
- (b) it will not adversely affect visual amenity; and
- (c) provision has been made for security, and the direct and safe access and movement of pedestrians and cyclists within the site.

Given that this is a rural car park, Policy AMP9 goes onto state:

(Rural Car Parks)

5.67 The amount and arrangement of car parking in rural locations can have a significant impact on the natural environment, particularly in sensitive locations. The development of larger schemes in the countryside, such as those to serve tourist facilities or rural golf courses, need particular care in respect of their scale and design. Overflow parking to cater for increased demand for special events should not generally be a hardened surface and use should be made of concrete grass pavers with pockets of soil which encourage the growth of grass, general vegetation or shrubs to hide the concrete.

5.68 The design, layout and landscaping of rural car parks should seek to retain the open nature and visual amenity of the countryside. In addition matters such as floodlighting, will require careful design in order to minimise their impact on visual amenity.

The Jungle itself represents a significant visitor and tourist draw for Mid-Ulster and this has already earlier been recognised. It also serves to provide local employment. The need for a car park clearly exists to allow the business to continue to expand in response to increasing demands.

I have considered all the available information and given that DfI Roads have now moved to a position to look positively on the application in light of the amendments, and have now signed and agreed a legal agreement with the applicant relating to use of the underpass, that whilst this decision is still somewhat an exception to the strict requirements of Policy AMP3 of PPS3, the closing up of an access to the farm yard, along with the provision of major improvements including a satisfactory passing bay arrangement, that an approval with suitable controlling conditions can be recommended.

Conditions:

The layout and associated road improvement Works are subject to a Private Streets Determination. The following conditions / informatives should be included in any planning approval

Drawings to be referenced in any approval

PSD	Dwg No 09/4	date stamped 15th December 2020
Cross Sections	Dwg No 08/1	date stamped 8th October 2020
Location Plan	Dwg No 01	date stamped 9th July 2015
Construction Details	Dwg 04/4	date stamped 8th December 2020

## CONDITIONS

1. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council/Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 09/4 bearing the date stamp 15th December 2020.

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

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

The works necessary for the improvement of the public road shall be completed in accordance with the details outlined blue on Drawing Number 09/4 bearing the date stamp 15th December 2020 within 6 months from the date of this decision. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

3. The vehicular access, including visibility splays of 4.5m x 160m at the junction of the proposed access road, and any forward sight distance, shall be provided in accordance with Drawing No.09/4 bearing the date stamp 15th December 2020 within 6 months from the date of this decision. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

5. The existing farm access indicated on Drawing No 09/4 bearing the date stamp 15th December shall be permanently closed in accordance with the fence detail on drawing No.... and the (carriageway / verge) properly reinstated to DFI Roads satisfaction within 2 weeks of the date of the completion of the works required under Conditions 2 and 3 and before any use of the new access hereby approved.

REASON: In order to minimize the number of access points on to the public road in the interests of road safety and the convenience of road users.

6. The existing unauthorised access to the carpark shall be permanently closed with a new post and wire fence with native species planting provided behind and the (carriageway/verge)

properly reinstated to DFI Roads satisfaction within 2 weeks of the completion of those works required by Conditions 2 and 3 and prior to any use of the new access hereby approved.

REASON: In order to minimize the number of access points on to the public road

7. The gradient(s) of the access road shall not exceed 4% (1 in 25) over the first 10m outside the road boundary.

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

8. No use of the car park shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 09/4 bearing date stamp 15th December 2020 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

REASON: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site.

9. A Road Safety Audit Stage 3 shall be carried out upon completion of the Nearside Passing Bay on the Desertmartin Road and subsequently a Stage 4 Road Safety Audit as required in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works shall be carried out in agreement with DFI Roads Authority.

REASON: In the interest of road safety.

10. A detailed programme of works and any associated traffic management proposals shall be submitted to and agreed by DFI Roads, prior to the commencement of any element of road works.

REASON: To facilitate the convenient movement of all road users and the orderly progress of work in the interests of road safety

11. Prior to any hard surface being applied to the car park a Drainage Assessment shall be submitted to the Council to be agreed with Rivers Agency.

Reason: To ensure an adequate means of storm water run-off is provided.

12. Prior to commencement of any element of road works a detailed drainage plan shall be submitted to council planning and agreed by DFI Roads.

REASON: In the interest of road safety.

13. An updated visitor's management plan shall be submitted to Council in writing for agreement by DFI Roads prior to any use of the new access to the car park. This should set out how visitors are directed to the underpass in a safe manner and how this will be managed by the applicant.

Reason: In the interests of visitor safety and the long term management of the site.

**Signature(s): M.Bowman**

**Date: 7<sup>th</sup> April 2022**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2015/0523/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI	<b>Location:</b> Approximately 80m South East of 60 Desertmartin Road, Moneymore
<b>Applicant Name and Address:</b> Mr Robert Carmichael C/o.agent	<b>Agent name and Address:</b> TC Town Planning Town & Country Planning Consultants 84 Ashgrove Park Magherafelt BT45 6DN
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area:</b> <p>The site is located approximately 3 km north of the village of Moneymore in the open countryside as defined by the Magherafelt Area Plan 2015. The site is adjacent to and connected with an existing farm complex and associated outdoor activity centre, known as 'The Jungle'. The proposed site is located on the eastern side of the Desertmartin Road (A29), a protected route. The site is accessed directly from the Desertmartin Road. A hardstanding has been created on the site and is being used as a car park. To the north of this is a footpath leading to a tunnel under the road providing access to the facility. This tunnel was designed for the use of moving cattle around the farm. There is a small stream located to the north of the car park.</p> <p>Views of the site are achievable when travelling along the A29 in both directions, however the existing roadside vegetation softens the landscape to some extent. The surrounding area is characterised by a mixture of single dwellings and farm complexes. An existing lime quarry is located approximately 600 metres to the east of the site. The surrounding land generally slopes upwards from the main road in a westerly direction, with land to the east of the road flatter.</p>	

**Description of Proposal**

The proposal is for 'Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI'. The proposed car park is laid out differently to what is currently in place, with a more formal layout proposed. The proposal includes 9 coach parking spaces, 4 disabled access spaces and 40 standard spaces.

**Deferred Consideration:**

This application was presented before the Planning Committee with a recommendation to refuse on 6 June 2017 where it was agreed by members to have a site meeting so that they could look at the situation for themselves on the ground. The site meeting took place on 15 June 2017.

Following the site meeting we have received a number of reports from the agent in support of the planning application. These have been considered both by myself and by DfI Roads. The applicant wants to be able to use the underpass that links the car park to The Jungle as a permanent means of pedestrian access and has suggested taking control of the underpass from DfI Roads. This underpass was built for the purposes of moving livestock and it has been argued by the applicant that humans also need to use the underpass when moving livestock. This proposition has been put to DfI Roads and in their latest response dated 9 February 2018 they have stated the following:

*"DfI roads has given this matter some thought and have concluded that it would be inappropriate to release this structure into private ownership. The structure is an integral part of the A29, Desertmartin Road, which is part of the strategic road network in Northern Ireland. The A29 carries approximately 5671 vehicles per day and it is important that the Department maintains control over all aspects of the road infrastructure to ensure continuity and remove the risk of disruption to traffic progression and road safety should any part of the network require maintenance. It must also be recognised that the SPPS gives weight to the regional importance of the strategic road network and the protection to be afforded to it therefore DfI Roads opinion remains unchanged in that this planning application should be refused and the refusal reasons...be presented to the planning committee for their consideration".*

In November 2017 the agent submitted an additional supporting statement together with additional information from other consultants. A Traffic and Parking Review makes the following conclusions:

- This new access provides considerable improvements for all road users compared with the existing situation;
- On balance safety has been enhanced for all road users (safety for pedestrians internally within the site, for motorists being able to safely enter the car park, safety for parking vehicles as visitors do not need to park on the A29 at the busiest times);
- PPS 3 and DCAN 15 are not rule books, and their standards are not set in stone. Failure to apply the standards does not automatically lead to danger;
- There are considerable improvements as a result of the new segregated car park for both patrons and traffic movement which is a material consideration.

The agent states there is an exceptional circumstance to be considered in this case, namely their assertion the existing access onto the protected route will be closed up and relocating an established and acceptable access to the other side of the road. However the existing approved access will not be permanently closed up. There is still a requirement for at least agricultural vehicles to access this site. No details have been provided of goods vehicles using the unauthorised access and car park on the P1 form and it is assumed that goods and other vehicles will access the site through the existing access for the purposes of deliveries etc. The agent also states that access will be required at the approved access point for persons with impaired mobility.

In my opinion it is false and misleading to say that one access will be closed up (save for disability access) and another opened up onto the protected route for the reasons I have outlined.

The agent has submitted a Bill of Quantities that has been prepared for the provision of a right hand turning lane into the unauthorised car park which comes with a total quoted cost of £424,000. A Bill of Quantities has also been submitted for a left bypass lane which comes with a total quoted cost of £198,000. The applicant has previously stated in an office meeting the cost of providing both these would not be economically viable for the business.

The Enforcement team served a notice on the landowner to permanently cease the use of the land as an unauthorised car park and the removal of other ancillary works to service the unauthorised car park and it also sought the reinstatement of the land to its previous condition. The notice was appealed by Robert Carmichael who is the applicant for this planning application. The agent has made a number of assumptions from the Commissioner's report that infer the Commissioner is not convinced the application can be refused. The agent refers to the "*level of experience and library of knowledge*" possessed by the presiding Commissioner. However it is my duty to assess all the information available on this planning application and make my own recommendation to the Planning Committee who will then make a decision based on all relevant Development Plans, Planning Policies and material considerations and to give due weight before making a decision on the application.

I feel the following are the relevant points to consider in this application:

- Contrary to the assertion the applicant is "*willing to forgo*" the established access for the sake of the current application and access off the protected route into the car park, the applicant is in actual fact seeking to retain the use of the existing access (as detailed above). Should the application be approved this will result in the creation of an additional access onto the protected route;
- SW Consultancy has supplied a "Trips Generated" report and states The Jungle office opens Mon-Sat. However this is misleading as the website clearly states the activities operate 7 days per week. The application is for 44 car spaces and 9 bus spaces but the P1 form details an additional 20 cars using the unauthorised car park. The agent in a submission received with the application stated there were 36,000 visitors to The Jungle in 2014 but in an office meeting with the applicant Mr Carmichael confirmed there were 58,000 visitors in 2016 (I have not been able to verify the quoted numbers). The "Trips Generated" report submitted as part of a report by SW Consultancy is based on the outdated figure of 2014. The agent asserts the traffic reports prove there is no need for a right hand turn lane but there is a need for the retention of the existing car park. However this is based on outdated visitor figures with the report completed in October 2017. The volume of traffic is not the only consideration when assessing if a right hand turn lane is required off a priority road.
- DfI Roads consider it would be inappropriate to release the underpass into private ownership (as detailed above). This would then result in visitors to The Jungle having to cross a road that is a protected route. In the information submitted Hoy Dorman provided details of a traffic survey that was carried out in Jun 2016. The average speed was measure at 57.23 mph and the 85<sup>th</sup> percentile speed was measured as 64.6 mph. This would prejudice the safety and convenience of road users as they would have to cross and re-cross the protected route thus increasing accident potential.
- The agent has stated that policy must be applied objectively and not simply be a tick box exercise and to approve the application does not set aside policy but addresses the overall spirit by providing betterment. However DfI Roads are not prepared to release the underpass into private ownership. The Design Manual for Roads and Bridges requires the minimum height for a pedestrian underpass to be 2.3m but the underpass here is 1.8m.

Whilst the agent has put forward an argument as to why planning permission should be granted, I have considered all the available information and given that DfI Roads consider it inappropriate to

release the underpass into private ownership there are serious safety concerns with the car park located on the opposite side of the road and I therefore recommend a refusal of the application.

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 and AMP3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

2. The proposal is contrary to Planning Policy Statement 21 Annex 1, consequential amendment to Policy AMP 3 of PPS3 Access, Movement and Parking, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of pedestrians attracted to the site since it proposed to utilise a cattle underpass, which is maintained by TNI, to move pedestrians under the protected route. The structure was not designed to transport people and does not meet the minimum design standards, for pedestrians, as set out in The Design Manual for Roads and Bridges.

4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would encourage pedestrians to cross and re-cross the protected route thus increasing accident potential.

**Signature(s):**

**Date**





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2015/0523/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI	<b>Location:</b> Approximately 80m South East of 60 Desertmartin Road Moneymore
<b>Referral Route:</b> Refusal recommended: contrary to PPS 21 & PPS3	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Robert Carmichael C/o.agent	<b>Agent Name and Address:</b> TC Town Planning Town & Country Planning Consultants 84 Ashgrove Park Magherafelt BT45 6DN
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

### Case Officer Report

#### Site Location Plan



**Consultations:**

Consultation Type	Consultee	Response

<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<b>Characteristics of the Site and Area</b>	
<p>The site is located approximately 3 km north of the village of Moneymore in the open countryside as defined by the Magherafelt Area Plan 2015. The site is adjacent to and connected with an existing farm complex and associated outdoor activity centre, known as 'The Jungle'. The proposed site is located on the eastern side of the Desertmartin road (A29), a protected route. The site is accessed directly from the Desertmartin Road. A hardstanding has been created on the site and is being used as a car park. To the north of this is a footpath leading to a tunnel under the road providing access to the facility. This tunnel was designed initially for the use of moving cattle around the farm. There is a small stream located to the north of the car park. Views of the site are achievable when travelling along the A29 in both directions, however the existing roadside vegetation softens the landscape to some extent. The surrounding area is characterised by a mixture of single dwellings and farm complexes. An existing lime quarry is located approximately 600 metres to the east of the site. The surrounding land generally slopes upwards from the main road in a westerly direction, with land to the east of the road flatter.</p>	
<b>Description of Proposal</b>	
<p>The proposal is for 'Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI'. The proposed car park is laid out differently to what is currently in place, with a more formal layout proposed. The proposal includes 9 coach parking spaces, 4 disabled access spaces and 40 standard spaces.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b>	
<p>I have assessed this proposal under the following:</p> <p>SPSS  Magherafelt Area Plan 2015  Planning Policy Statement 1 - General Principles  Planning Policy Statement 3 - Access, Movement and Parking  Planning Policy Statement 21 - Sustainable development in the countryside</p> <p>The proposal is to access onto the Desertmartin Road which is a protected route as defined in the Magherafelt Area Plan 2015.</p> <p>Site History - H/2004/1367/F - Approval granted for 2 poultry houses and entrance room  H/2007/0545/F - Approval granted for retention of farm diversification project for paintball games to ancillary facilities  H/2009/0490/F - Approval granted for indoor paintball centre  H/2010/0027/LDP - Approval for ancillary tree top facility  H/2010/0368/F - Approval granted for retention of games zone area for zorbing and paintball and proposed extension to paintball games zone area. Retention of office/reception area and ancillary facilities for established paintball business.  H/2010/0519/F - Approval granted for minor alterations to previously approved</p>	

indoor paint ball centre to include change of use to office/reception, meeting room, male and female toilets, changing rooms and showers, canteen kitchen and store facilities for established paint ball business and increase in ridge height.

H/2012/0401/F - Approval granted for proposed log cabin for reception/office use in conjunction with 'The Jungle' activity centre.

It should be noted that there is an ongoing enforcement case with regards this proposal and this submission is following this enforcement.

In line with legislation this proposal was advertised in the local press during August 2015 - no representations have been received to date.

Neighbours: Owners/occupiers of No 60 Desertmartin Road were notified of this proposal on 03.08.2015 - no objections have been received to date.

Consultees: - Transportni were asked to comment and responded on 07.10.2015 recommending the proposal for refusal as 'this is a Transportni maintained structure for the sole purpose of livestock transfer/agricultural purposes and not suitable for members of the public to use because of the confined spaces implications. Following further clarification of nos. of visitors etc Transportni commented further on 09.03.2016 again recommending the proposal for refusal. Further discussions were held and subsequent reconsultation, Transportni responded to this on 19.01.2017 still recommending the proposal for refusal.

Water Management Unit were asked to comment and responded on 17.08.2015 with no objections.

Waste Management unit were also asked to comment and responded on 17.08.2015 with no objections.

Rivers Agency were asked to comment and responded on 10.08.2015 requesting a drainage assessment due to the size and nature of the proposal (Change of use involving hard surfacing exceeding 1000 sqm.). This has not been requested as a recommendation of refusal was being recommended so didn't want to put the applicant to unnecessary expense.

In line with CTY 1 of PPS21 all proposal for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Department's published guidance. It is my opinion that having considered all the information available that this proposal does not comply with this point of planning policy statement 21. The sheer size of the car park does not lend itself to integrate sympathetically with the surrounding land uses, Transportni have advised that road safety is an issue, drainage has not been dealt with and the access arrangements are not in accordance with published guidance.

In addition Annex 1 of PPS21 clearly states in part (d) Other Categories of Development - approval may be justified in particular cases for other developments which would meet the criteria for development in the countryside and access cannot be reasonably be taken from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route. However currently there is no existing vehicular access, a field gate is not an access (paragraph 5.13 of PPS3 AMP2) and so this is further reason for a refusal to be recommended.

Extensive discussions have been held between the applicant, Transportni and ourselves to try and fully assess this proposal and potentially find a solution that adheres to policy and is acceptable to all parties. However this resolution was not achievable and Transportni are still of the opinion that the development does not comply with policy AMP 3 of PPS3 (access to protected routes). The development would not be deemed as an exception under the policy. The car park is on the opposite side of the road from 'The Jungle' and the proposed access is via an underpass below the road that is already in place. The underpass is managed by Transportni

and is only to be used for agricultural purposes. Transportni will not give permission for the use as a pedestrian access as the minimum standards are not adhered to (heights, ventilation etc.) Consequently, pedestrians would have to cross a protected route which would impact on road and pedestrian safety.

It is Transportni's opinion that the site history of H/2004/1367/f for poultry houses is no longer relevant as it was never implemented and since then Planning Policy Statement 21 has replaced Planning Policy Statement 14 as the relevant policy with which this proposal must be assessed. Discussions with TNI have taken place with regards the use of the cattle underpass for the movement of pedestrians however they have commented that they could not sanction this use as the underpass is a structure which was designed for the safe movement of livestock from one area of the farm to another. It is 1.8m high while the minimum height for a pedestrian underpass is 2.3m as set out in the Design Manual for Roads and Bridges volume 6 section 3 Part 1 TD 36/93.

It should be noted that the applicant has a large amount of land under his ownership and there may be the potential for alternative siting on the opposite side of the road to the rear of existing grouping of buildings and thus resulting in the favourable closure of the unauthorised car park.

In the consideration of this proposal AMP 9 of PPS3 should also be mentioned. Within this policy it states that there is a high expectation for a high standard of design, layout and landscaping to accompany all proposals for car parking and planning permission will only be granted for a proposal where all of the following criteria are met:

- it respects the character of the local townscape/landscape;
- it will not adversely affect visual amenity; and
- provision has been made for security, and the direct and safe access and movement of pedestrians and cyclists within the site.

Relating this to this particular proposal it is my professional opinion that this scale of car parking on the opposite side of the road from the existing business does not respect the existing character but would rather be an expanse of 'dead space'. No floodlighting has been indicated on the submitted plans but it would seem likely that for a car park of this scale that some sort of floodlighting would be added and this in itself would have a negative impact on the visual amenity. On this side of the road the landscape character would be one of an agricultural nature and the proposed large car parking would not be visual integrated into the landscape. Finally no provision has been made for the direct and safe movement of pedestrians and cyclists within the site and as such the proposal fails to meet the standards of AMP 9 of PPS3.

Having considered all of the above I feel that the only recommendation that can be made is that of a refusal as the proposal is contrary to PPS 21 CTY 1 & PPS3.

Members are asked to note that if this application was refused then there is an existing enforcement notice in place (H/2015/0004/CA) requiring that the land in question be:

- permanently cease use of the land for the unauthorised use of car parking;
- remove all hardcore from the land;
- remove the floodlights from the land;
- permanently remove the structures which can be used for the display of advertisements; and
- re-instate the land to its previous condition by re-soiling with 150mm of top soil and re-seeding in grass.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal recommended : contrary to CTY 1 of PPS21 & AMP 2, 3 & 7 of PPS3

**Reasons for Refusal:**

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2 and AMP3, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
2. The proposal is contrary to Planning Policy Statement 21 Annex 1, consequential amendment to Policy AMP 3 of PPS3 Access, Movement and Parking, in that it would, if permitted, result in the creation of a new vehicular access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.
3. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of pedestrians attracted to the site since it proposed to utilise a cattle underpass, which is maintained by TNI, to move pedestrians under the protected route. The structure was not designed to transport people and does not meet the minimum design standards, for pedestrians, as set out in The Design Manual for Roads and Bridges.
4. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would encourage pedestrians to cross and re-cross the protected route thus increasing accident potential.
5. 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.

**Signature(s)****Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	9th July 2015
<b>Date First Advertised</b>	10th August 2015
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 55 Desertmartin Road Quilly Moneymore The Owner/Occupier, 60 Desertmartin Road, Quilly, Moneymore, Londonderry, BT45 7RB,	
<b>Date of Last Neighbour Notification</b>	3rd August 2015
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<p>Ref ID: H/1973/0154            Proposal: SAND AND GRAVEL EXTRACTION            Address: QUILLY, MONEYMORE            Decision:            Decision Date:</p>	
<p>Ref ID: H/2004/1367/F            Proposal: 2 No. Poultry Houses and Entrance Room.            Address: Approximately 120m East of 60 Desertmartin Road, Moneymore.            Decision:            Decision Date: 05.09.2006</p>	
<p>Ref ID: H/2010/0519/F            Proposal: Minor alterations to previously approved indoor paint ball centre            Ref.H/2009/0490/F to include change of use to office/reception, meeting room, male and female toilets, changing rooms and showers, canteen, kitchen and store facilities for established paint ball business and increase in ridge height            Address: 110 Metres South West of 60 Desertmartin Road, Tobermore,            Decision:            Decision Date: 05.05.2011</p>	
Ref ID: H/2009/0490/F	

Proposal: Indoor paint ball centre with 16 car parking spaces provided  
Address: 110m South West of 60 Desertmartin Road, Tobermore  
Decision:  
Decision Date: 17.11.2009

Ref ID: H/2007/0545/F

Proposal: Retention of farm diversification project for paintball games and ancillary facilities.  
Address: Approximately 500m West and 150m East/South-East of 60 Desertmartin Road, Moneymore, Magherafelt  
Decision:  
Decision Date: 06.08.2009

Ref ID: H/2010/0027/LDP

Proposal: Ancillary tree top activity  
Address: Approx 550m west of 60 Desertmartin Road, Moneymore, Magherafelt  
Decision:  
Decision Date:

Ref ID: H/2012/0401/F

Proposal: Proposed Log Cabin for Reception/Office Use in Conjunction with "The Jungle" Activity Centre  
Address: Approx 560m SW of 60 Desertmartin Road, Moneymore (Existing Jungle Activity Centre),  
Decision: PG  
Decision Date: 18.02.2013

Ref ID: H/2010/0368/F

Proposal: Retention of games zone area for zorbing & paintball & proposed extension to paintball games zone area. Retention of office/reception area & ancillary facilities for established paintball business.  
Address: Land to the east & south of The Jungle, 60 Desertmartin Road, Moneymore  
Decision:  
Decision Date: 14.10.2010

Ref ID: H/2009/0545/F

Proposal: Installation of a wind turbine (15m high)  
Address: Approx 184m from Main Desertmartin Road in North West corner of field at 60 Desertmartin Road, Moneymore  
Decision:  
Decision Date: 25.11.2009

Ref ID: LA09/2015/0523/F

Proposal: Retrospective permission for retention of car park and pedestrian access via under road tunnel in association with the Jungle NI

Address: Approximately 80m South East of 60 Desertmartin Road, Moneymore,  
Decision:  
Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No. DOC1  
Type: Technical Specification  
Status: Submitted

Drawing No. 03  
Type: Levels and Cross Sections  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1564/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed 4 No apartments, 2 No 2 bedroom and 2No 1 bedroom with associated parking with access onto Woodlawn Park and on site waste water treatment plant. (Noise and Odour Assessment Provided)	<b>Location:</b> 10m to the rear of 60 Union Place Dungannon
<b>Applicant Name and Address:</b> Mr Brendan Cunningham 95 Tandragee Road Pomeroy	<b>Agent name and Address:</b> Prestige Homes 1 Lismore Road Ballygawley BT70 2ND
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b> NI Water – NIEA – Environmental Health – DFI Roads -	
<b>Characteristics of the Site and Area:</b> This site is located within Dungannon Town Centre (as indicated in the Dungannon and South Tyrone Area Plan 2010) on an area of land that is zoned as a protected housing area. An irregular shaped plot consisting of two rear gardens to the rear of No.s 54-60 Union Place. At present access is via a narrow tarmac pedestrian laneway which runs between Union Place and Woodlawn Park. There is a domestic garage in poor state of repair to the SE corner and land slopes steeply downhill to the north, from Union Place to Woodlawn Park.	

No. 62 Union Place to the north of the application site is a detached 2 storey dwelling on a large site which is at a lower level than the application site. To the south is a terrace of 4 no. 2 storey dwellings which are at a higher level than the site. East of the site are commercial premises. To the NE and NW of the site are rows of terraced dwellings which are stepped down in an east to west direction (Woodlawn Park). Also beyond the application site to the north are detached single storey dwellings.

#### **Description of Proposal**

This is a full planning application for 4 apartments, 2No. 2 bedroom and 2No. 1 bedroom with associated parking and on site waste water treatment facility.

#### **Deferred Consideration:**

This application was before the Committee in June 2019 where it was deferred for a member's site visit which was undertaken on 27 June 2019. Following the members site visit the applicant was invited to revise the scheme to take account of the concerns raised by objectors and also to address an issue with disposal of waste water from the site, as NI Water have advised they cannot accommodate the discharge from this development at present due to capacity issues at Dungannon WWTW.

Revised plans were submitted that narrowed the overall building from 12.5m to 9.0m, lengthened it from 18m to over 23m and moving it on the site so the building is now 5m from the boundary with the garden to No 56, having previously been 2m at the closest point. There is approx. 130sqm of amenity space proposed at the rear and side of the proposed development, bin storage area and 5 car parking spaces. The rear amenity space is proposed to be enclosed to the south by a retain wall, topped by a close board fence as it is proposed to dig the development into the site by approx. 2m at the deepest point to the south of the site.

A package Sewage Treatment Plant (pSTP) is proposed along the north boundary of the site, with No 62 Union Place, this dwelling also access off Woodlawn Park. These amendments and additional reports have been advertised in the local press and neighbours have been notified about them. An additional 8 letters of objection were received in relation to the amended plans.

#### **Additional Objections Received (comments on these *in italics*)**

##### **Aidan Quinn**

No response to the previous objection submitted:

- *the issues raised by previous objections have been set out and considered in the report to the Planning Committee, the Planning Department do not write out to all correspondents to communicate the considerations of the objections, this is done by reporting to the Planning Committee and allowing others to address the Committee, in line with the Protocol for the Operation of the Planning Committee.*

Out of keeping with the existing pattern of development and will impact on the safe use of Woodlawn Park:

- *PPS7 Addendum – Safeguarding the Character of Established Residential Areas clearly differentiates between development in town centres and other areas within*

*settlement limits as it specifically excludes these areas from having to accord with the additional tests and space standards for new development. It is not clear how the proposal will negatively impact on the safety of the gardens in Woodlawn Park, fences and retaining structures are proposed to be erected around the site.*

Access onto Logans Lane, provision for pedestrians and the number of cars that will use it:

- *access to No 62 Union Place, a large detached property, already uses Logans Lane onto Woodlawn Park, it has a lane marked out with a wooden fence separating the pedestrians from the lane, the application indicates the pedestrian access to Union Place will be maintained open at all times. The proposed development provides 5 car parking spaces, this is 0.5 spaces short of the requirement for 2 no 2 bedroom apartments and 2 no 1 bedroom apartments as set out in the published parking standards (1.25 spaces for each 1 bedroom apartment and 1.5 spaces for each 2 bedroom apartment)*

Water from Logan's Lane and car lights will impact on Mr Quinn's dwelling:

- *no details have been provided of Mr Quinns properties location, however there are properties opposite the bottom of 'Logans Lane' Logans Lane is currently in place between Union Place and Woodlawn Park and the proposal seeks to keep this open. DFI Rivers Flood Maps do not indicate there is any surface water flooding at this location and PPS15 sets out a threshold of 1000sqm of new hard surfaces to require the submission of a Drainage Assessment, as presumably this is a figure that could result in significant run off from rainwater. The proposed development site is approx. 475sqm in area: 130sqm of this is proposed as relatively flat grass areas in place of the current sloped grass, consequently this is likely to reduce run off rates from these areas; approx. 120 sqm of the site is the footprint of the building and water from the roofs will be directed into the public storm sewer which leave the remainder as approx. 225sqm for parking which is likely to be new hard surfaces. This is well below the threshold and unlikely to significantly affect the amount of run off over and above what is currently on Logan's Lane.*
- *The properties at the bottom of 'Logans Lane' are enclosed by a thick hedge which would, in my opinion screen car lights.*

Apartments are out of character with the area

- *the area is a mix of house types and commercial development, 6no. 2 bedroom apartments are located on the opposite side of road from 54 - 60 Union Place at the top end of 'Logans Lane', this is a town centre location where apartment development can be expected and the Addendum to PPS7 – Safeguarding Established Residential Areas recognises that and it does not impose the additional restrictions set out in LC1.*

Noise, nuisance and loss of privacy

- *the noise and odour associated with the pSTP has been considered in a report to EHO, the residential use proposed is unlikely to raise any new or significant issues that are not already present*
- *the design of the development addresses these issues and carefully orientates windows and locates them so as not to result in undue overlooking of the neighbouring properties, the rear garden is below the gardens of the neighbours for some part and has screen fencing to preserve amenity.*

Does the applicant have legal title to the lane to construct a driveway:

- *it has been identified on the application form that a right of way exists within the site, this is the path that leads between Union Place and Woodlawn Park, the applicant has indicated they own all the lands and this has not been disputed. The lane is used to access the dwelling at 62 Union Place from Woodlawn Park and there is access to the garage to the rear of the dwelling at 60 Union Place at the top end of the lane. Members will be aware that planning permission does not transfer title of a property or land, it is a matter for the developer to satisfy themselves that they have total control of all the lands necessary to carry out the development and any future purchasers solicitors to check ownership*

Road safety

- *DFI Roads have been consulted and advised the access onto Woodlawn meets the minimum standard.*

Improve sight lines onto Quarry Lane

- *DFI Roads advise the intensification of the use of the substandard accesses onto Quarry Lane falls below the 10% threshold in the Institution of Highway and Transportation (IHT) Guidelines and as such could not insist that this development upgrades these accesses.*

### **Oonagh Given on behalf of residents of 56 Union Place**

Refer to previous letter of objection dated 5 February 2019 and email of 5 June 2019

PAC Decision 2018/A0093 and 1997/A001 are relevant to this application and set out the context:

- *2018/A0093 is for dwelling and garage located within proposed Bangor West Area of Townscape Character (designated in BMAP which was not properly adopted), this is not within a defined Town Centre and is therefore a different policy context*
- *1997/A001 is for a detached granny flat, shed and double garage in the garden of 29 Ferndene Park Dundonald, I agree that even though it predates PPS7 the principle are the same, however it is not within a Town Centre and as such is subject to a different policy context*
- *PPS Addendum – Safeguarding the Character of Established Residential Areas is the policy context and it is clearly set out in Annex E – Exceptions, that within town centres there is desirability to promote increased density housing in appropriate locations, this site is located in the town centre for Dungannon, it has a frontage onto a private right of way and easy access to the main shopping area and services for the town*

The application should be considered against PPS7 Addendum, Policy LC1:

- *as highlighted above PPS7 Addendum Annex E – Exceptions removes the need to consider policy LC1 in designated town centres*

Parking and access, property at No60 not part of the application, the proposal will result in intensification of use of the access over 5% onto Quarry Lane:

- *No60 is not part of the proposal, the proposed development provides 5 car parking spaces, this is 0.5 spaces short of the requirement for 2 no 2 bedroom apartments*

*and 2 no 1 bedroom apartments as set out in the published parking standards (1.25 spaces for each 1 bedroom apartment and 1.5 spaces for each 2 bedroom apartment)*

- *DFI Roads have been consulted and advised the access onto Woodlawn meets the minimum standard.*
- *DFI Roads advise the intensification of the use of the substandard accesses onto Quarry Lane falls below the 10% threshold in the Institution of Highways and Transportation (IHT) Guidelines and as such could not insist that this development upgrades these accesses. This is different to the guidance in DCAN15, intensification is over 5% increase in use of an access onto the public road, in this case the public road is Woodlawn Park and this should not be considered in relation to the knock on effect on other road junctions.*

Assessment against policy QD1 of PPS7 and Creating Places Guidance has not been properly considered and did not appear to form part of the previous consideration by the Department:

- *the original case officer has provided analysis of the proposed scheme against the criteria in QD1 of PPS7, additional comments have been added below to address specific issues that have been raised in later objections*
- *the access stairs to the north is located 10m from the gardens of the objectors, with another garden in between, this area is already overlooked by the properties in Union Place*
- *the access stairs to the south could result in some overlooking of the gardens to Union Place as it is 5m from their garden, this is a 1.5sqm platform to provide entrance to the apartment, it may have one or 2 people standing at a time, which I do not consider would be off such an unacceptable impact.*
- *I do not consider the south access stairs would have an undesirable affect on No 62 as there is a hedge between them and outbuildings which would reduce the impact.*
- *the proposal has moved further away from the gardens and has created additional private amenity space to the rear for the residents, the privacy of this can be controlled by the residents and there is direct surveillance from the ground floor apartments which I consider addresses any security issues*

Comments on amended scheme:

This will increase the overlooking of private amenity space for no 56, increased overshadowing and loss of amenity for No60 (no 62 Woodlawn is the detached dwelling to the north) and create a danger for anyone stepping into road from stairs on southern elevation

- *this proposal is further away from the garden for No 56 and conditions can be added to provide obscure glazing and prevent the windows from opening to protect privacy*
- *there will be some overshadowing of No 62 as the proposal will be approx. 10m from the rear wall of the property, however due to its orientation, the topography of the land with higher ground to the south, the low monopitched roof and narrow building, this overshadowing will be limited to morning time and early afternoon, it is unlikely to have any great impacts in mid summer and due to the low angle of the sun in winter time there will already be limited direct sunlight.*

- *The access to Union Place is for pedestrian use only and there are no proposals to use this for vehicular traffic.*

Creating Places sets out minimum distances of 15m for new development from existing garden areas and separation distances of greater than 20m to minimise overlooking

- Creating Places sets out that it is guidance and that it does not expect developments to meet every aspect of the guidance (para 17)
- 20m separation distances are back to back and front to front separation that is desirable in new developments to prevent direct overlooking from upstairs windows, in this case the proposal does not have windows on directly opposing elevations to any of the development around it
- the gardens areas for the existing properties at 56 and 58 Union Place are already overlooked by windows in the existing properties in Union Place, as well as the private areas immediately to the rear of these properties which are at higher levels than the gardens. The windows in the kitchen and bedroom of apartment 3 (upstairs apartment closest to Union Place) will be 5m from the boundary and facing towards a 2.7m high retaining wall with a 1.8m high screen fence on top, totalling 4.5m above the proposed ground level. The window openings are 4.2m to 5.3m above the proposed ground level and I consider this reduce the overlooking of the gardens to an acceptable degree, given that the top parts of the gardens are already overlooked by the existing houses. Obscure glazing in the 3 windows in the hallway and toilet for apartment 4, will also limit overlooking.

High level windows will not minimise overlooking as previously stated in the case officer report:

- *I agree with what is being said here and propose these windows are obscure glazing*

DCAN8 sets out for backland development plot depths of 80m will generally be unacceptable

- *DCAN 8 is for advise purposes and while I accept this is the guidance, there are other polices that promote density in new developments in town centre locations*

Odour assessment for package Sewage Treatment Plant (pSTP) has not included the dwelling at 56 or its garden as being Noise and Odour Sensitive Receptor and these have not been assessed. The garden for 56 is a sensitive location and this should be protected, requests EHO view on this:

- *The report indicates there is unlikely to be adverse impacts on neighbours due to odour or noise and EHO have not disputed these figures. EHO advise a minimum separation distance of 7 metres from the plant and any **dwelling** is recommended. Members are advised the objectors garden is 14 metres from the proposed plant, the proposed apartments will be located approx. 4m from the plant and are the closest sensitive receptors, therefor it is in their interests to ensure the plant operates properly.*

Parking spaces in no 62 Union Place are not for this development, parking should be provided to the full standard and access to the pSTP for servicing should be protected:

- *the applicant has not identified any ownership or control over the dwelling at 62 Union Place, the proposed development provides 5 car parking spaces clear off the private lane, this is 0.5 spaces less than the Parking Standards require for this*

*development, however due to its town centre location, I do not consider this is necessary as the site can be serviced by other modes of transport. Access to service the plant (tanker for emptying and service van for maintenance) can be obtained from the private lane and I do not consider there is anything that would suggest this will not be possible, especially as it is in the interests of the occupants of the apartment block.*

The sight lines onto Union Place are not adequate to accommodate this development:

- *the development is proposed to be accessed off Woodlawn Park and Quarry Lane, there is an existing garage at the rear of No 60 and the lane does provide access to it.*

Dimensions of the site are not as stated in the concept plan, this is not housing but apartments, it is not appropriate for families as not amenity space and the Council is not prejudiced by the previous decision and may determine the application afresh:

- *the site area is noted as approx. 475sqm and the proposal is being assessed against this*
- *private communal amenity space of 130sqm is being provided for the development*
- *the previous decision to approve a similar development is a material planning consideration, members may wish to rely upon this previous permission or may wish to set this aside provided there are good reasons to do so and may form a different opinion*

#### **Mark Steenson – 58 Union Place**

Design changes only relate to changes to the windows and do not change view that site is to small with limited access:

- *the amendments include narrowing the building and elongating it to allow further separation from the gardens of the properties in Union Place*
- *the site was previously accepted for this type of development given its town centre location*

Taking account of the above analysis of the objections received to the proposal, I would advise the members there may be some loss of amenity to the residents of the existing development due to this proposal. Members may take account of the original approval and may also take their own view contrary to that. However this proposal is in a town centre location where there is clear direction to promote increased density housing. There is also an understanding that development in towns and town centres will have some degree of overlooking and overshadowing. In light of this and the previous approval on the site, it is my recommendation this application is approved with the attached conditions.

#### **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 the occupation of any of the apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas as indicated on the approved plan drawing no. 01Rev2 date received 24 AUG 2020.

All hard and soft landscaping works shown on the approved plans shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

Reason: To ensure the provision, establishment and maintenance of a the private amenity space for the residents of this development and in the interest of residential amenity..

3. Prior to the occupation of any of the apartments hereby approved all boundary treatments shall be in place in accordance with details indicated on drawing No. 01Rev2 date stamp received 24 AUG 2020 unless otherwise agreed in writing by Mid Ulster Council.

Reason: In the interest of safeguarding private amenity.

4. Prior to the commencement of any other development hereby permitted, the vehicular access, including visibility splays of 2.0m x 33.0m where it meets Woodlawn Park and widening of the access to 4.8m for the first 10.0m back from where the access meets Woodlawn Park shall be provided in accordance with Drawing No 01Rev2 date stamp 24 AUG 2020. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

6. Prior to the commencement of any development hereby approved the developer shall provide a bollard or other means of ensuring that vehicular traffic from the development shall not access the site from Union Place and that pedestrian access is maintained at alle times to Union Place.

Reason: In the interests of road safety and pedestrian safety.

7. Prior to the occupation of any of the development hereby approved the developer shall provide the Council with either:  
- written confirmation that an on site sewage treatment plant has been installed and commissioned in accordance with the approved details and to NIEA satisfaction or  
- written confirmation from NI Water that a connection has been made for waste water from the site into the public network.

Reason: To prevent pollution from waste water disposal.

7. Prior to the occupation of any of the development hereby approved the windows marked x, y and z (hallway and toilet for apartment 4) on drawing No 02 Rev1 bearing the stamp dated AUG 2019 shall be permanently fitted with obscure glazing and shall be permanently fitted with devices to restrict opening.

Reason: In the interest of residential amenity.

## **Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

3. DfI Roads advise;  
The applicant must apply to the DfI Roads Service for a licence indemnifying DfI against any claims arising from the implementation of the proposal.

The developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. DfI has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

Responsibility for the access way and parking areas rests solely with the developer.

The approval does not empower anyone to build or erect any structure, wall or fence or encroach in any other manner on a public roadway (including a footway and verge) or on any other land owned or managed by the Department for Infrastructure for which separate permissions and arrangements are required.

Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

All construction plant and materials shall be stored within the curtilage of the site.

It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site.



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

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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1564/F	<b>Target Date:</b>
<b>Proposal:</b> Proposal for 4 apartments 2No. 2 bedroom and 2No. 1 bedroom with associated parking (previously approved under M/2008/0412/F) (Biodiversity)	<b>Location:</b> 10m to the rear of 60 Union Place Dungannon
<b>Referral Route: Objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Mr Brendan Cunningham 95 Tandragee Road Pomeroy	<b>Agent Name and Address:</b> Prestige Homes 1 Lismore Road Ballygawley BT70 2ND

**Case Officer Report**

**Site Location Plan**



**Representations:**

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

See main body of report for consideration of objections.

**Description of proposal**

This is a full planning application for 4 apartments, 2No. 2 bedroom and 2No. 1 bedroom with associated parking (previously approved under M/2008/0412/F).

**Characteristics of Site and Area**

This site is located within Dungannon Town Centre (as indicated in the Dungannon and South Tyrone Area Plan 2010) on an area of land that is zoned as a protected housing area. An irregular shaped plot consisting of two rear gardens to the rear of No.s 54-60 Union Place. At present access is via a narrow tarmac pedestrian laneway which runs between Union Place and Woodlawn Park. There is a domestic garage in poor state of repair to the SE corner and land slopes steeply downhill to the north, from Union Place to Woodlawn Park.

No. 62 Union Place to the north of the application site is a detached 2 storey dwelling on a large site which is at a lower level than the application site. To the south is a terrace of 4 no. 2 storey dwellings which are at a higher level than the site. East of the site are commercial premises. To the NE and NW of the site are rows of terraced dwellings which are stepped down in an east to west direction (Woodlawn Park). Also beyond the application site to the north are detached single storey dwellings.

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

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

**Area Plan**

Dungannon and South Tyrone Area Plan 2010: within town centre limits on an area of land that is zoned as a protected housing area. This zoning is to protect existing housing from pressure from non-residential uses.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on 22nd Feb 2019. Policy GP1 – General Principles Planning Policy and Policy HOU2 Quality Residential Development are applicable to this application. This proposal is in keeping with both of these policies. As such, the development is in conformity with the Draft Plan Strategy even though it holds no determining weight as it is only at early consultation stage.

**Relevant Planning Policy**

Regional Development Strategy for Northern Ireland 2035 (RDS)

Strategic Planning Policy Statement

PPS 3 - Access, Movement and Parking

PPS 7 - Quality Residential Environments

Addendum to PPS 7- Safeguarding the Character of Established Residential Areas

**Design and Guidance**

Creating Places- Achieving Quality in Residential Developments

Improving the Quality of Housing Layouts in Northern Ireland  
DCAN 8 - Housing in Existing Urban Areas

**Planning History**

M/2008/0412/F- 4 No apartments, 2 No 2 bed and 2 No 1 bed with associated parking, granted 18.08.2009.

**3rd party objections**

A number of objections have been made in relation this proposal from neighbouring properties and raise the following issues (summarised);

- that M/2008/0412/F has expired and any weight attached to it has diminished;
- Since the previous permission new policy has been introduced, Addendum to PPS7- safeguarding the character of established residential areas;
- at no point in the sequence for choosing housing lands under the development plan process are domestic gardens identified as suitable for housing;
- that the proposal is contrary to parts (a), (b) and (c) of policy LC1 in that density is significantly higher, the established pattern of development is not respected, and, the apartment sizes are not in accordance with the standards set out in Annex A of the addendum;
- that the proposal will result in intensification of a sub-standard access and is contrary to policy AMP2 of PPS3 Access, Movement and parking;
- proposal is contrary to Creating Places (para 7.16, 7.21-7.23)) in that the proposed private amenity space will be overlooked and overshadowed by the terrace at Union Place;
- proposal contrary to criteria (a) to (h) of QD1 of PPS7.
- design contrary to (a) and (g) of QD1 of PPS7 as not in keeping with existing building materials and design;
- no new landscaping is provided and trees will be lost to make way for the development (contrary to parts (a) and (c) of QD1);
- the design does not deter crime or promote personal safety and does not comply with criteria (i);
- that the proposal will have a detrimental impact on existing property value;
- lead to parking problems;
- lead to criminal damage, littering, unsocial behaviour, loitering etc.;
- adverse effect on residential amenity by reason of loss of privacy contrary to Article 8 of the European Convention on Human Rights;
- unacceptable over-development of the area, involving loss of garden, inappropriate scale, massing and design;
- laneway insufficient for additional traffic;
- adverse impacts on wildlife (e.g. squirrels, badgers, hedgehogs and a variety of birds);
- loss of views from neighbouring properties would adversely affect the residential amenity of the area;
- generate additional traffic and associated noise.

Reference is also made to PAC decision 2016/A0051 (planning ref: LA10/2016/0072/F).

**Consideration**

Permission was granted for this exact proposal under planning application M/2008/0412/F. As one objector correctly pointed out, this permission has now expired.

M/2008/0412/F was found to be in accordance with the policy criteria of QD1 of PPS7. However, since this permission an addendum to PPS7 has been introduced (2010) called Safeguarding the Character of Established Residential Area which is to be considered alongside PPS7 Quality Residential Environments policy QD1 where applicable. The Strategic Planning Policy Statement has not made any changes to policies contained within PPS7.

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

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

The principle of 4 apartments on this site has been established under M/2008/0412/F and the layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas remains the same as the original permission. While the previous permission has lapsed, determining weight can still be afforded to this decision as the policy context has not changed, and policy QD1 is still applicable until such times as the new area plan is formally adopted. In my view, even though the previous decision was made by the Department, that the same planning principles and policy apply.

The building is 2 storey and is 'L' shaped on plan, with a square block projecting forward of a rectangular block to the west. Both interconnecting blocks have a mono pitched roof. While most residential properties in the area have symmetrical pitched roofs, it is my view that this proposal does to look out of place as it is screened by existing development on Woodlawn and in Union Place and the height, scale and massing is similar to surrounding 2 storey properties. There is no special character of development in this area, and the site is not within a conservation area or Area of Townscape character therefore there are no strict rules in terms of property design and/or materials used. Plus, the site does not command an important vantage point in the landscape or street scape therefore in such a context there is more scope for alternative design and/or materials within this town centre urban environment, subject to surrounding amenities and land uses being protected and respected.

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

There are no archaeological, built heritage, or landscape features in the immediate vicinity of this site to be considered for protection and integration into this development. Concern was raised by objectors that the proposal would result in tree loss, hedgerows and would have a detrimental impact on bio-diversity on this site. I requested further information from the agent to address these concerns and on receipt of this information I consulted NIEA. On 30.04.2019 NIEA provided a response and raised no concern or objection to tree and/or hedge loss given that the area in question was overgrown shrub area with low biodiversity value. Given the size and scale of development within this existing urban environment it is my view that impacts on biodiversity will be negligible.

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

Due to the size and scale of development, there is no requirement for provision of public open space.

In terms of private amenity; the proposed private amenity space is located to the west and north of the development and is calculated at approximately 100 square metres. Creating places suggest that in the case of apartment development on small urban infill sites should range from a minimum of 10 sq m to around 30 sq m. As there are 2 one bedroom apartments (2 x 20 sq m) and 2 two bed apartments (2 x 30 sq m) it is my view there is ample amenity space provided for this town centre development. On top of this there is also bin storage provided to the side of the development which does not encroach on the private communal space.

There is no provision of landscaping, however there is landscaping opposite the site which helps to soften the development, and it was found acceptable under the previous permission to proceed without landscaping provision.

It is noted that this development also uses up existing private rear amenity space to No. 58 and 60 Union Place. The remaining private amenity is measured at approximately 63 sq m and 60 sq m respectively. Creating places has a guide of 70 sq m of private rear amenity for dwellings, however this is just a guide and houses with smaller areas will be more appropriate for houses with 1 or 2 bedrooms. While it is not known how many bedrooms these dwellings have, given their town centre location and proximity to areas of open space, it is my view that these private amenity spaces are acceptable for these dwellings in this instance.

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

There is no requirement to provide local neighbourhood facilities as part of this application for 4 residential units, as there is adequate provision within walking distance from this town centre location.

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

There is access to an existing footpath and road network which supports a variety patterns of movement, meeting the need of all who use it.

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

There is adequate in-curtilage space for parking provided for this development. DfI Roads were consulted on this proposal and no objection has been raised over parking provision.

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

The proposed materials were assessed to be acceptable under M/2008/0412/F and planning policy has not changed from this point. While the design, form, materials and detailing are not the same as surrounding housing development, it is my view that the proposal is acceptable for its context and will not have a detrimental impact on the residential character of this area given the site and context.

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

It was determined under M/2008/0412/F that this exact proposal was acceptable in terms of impacts on neighbouring amenity.

Dwellings in Union Place will back onto the development and will be at a higher level.

The separation distance between properties on Union Place and the proposed development is approximately 9 metres, however this will be to the gable wall of the new apartments. The southern gable of the proposed apartment block defines the rear garden boundary of No. 60 and part of the boundary to No. 58. Given that the apartment block has a FFL of approx. 2 metres below the garden level of both 58 and 60, in essence you are left with a 4m high rear boundary wall to No. 60 and part of 58. While this arrangement is not usually considered acceptable in terms of quality design it is my view that it is on the limits of acceptability for the following reasons;

-The garden level is 2 m above ffl of the apartment FFL;

-the orientation of these gardens means that they will not suffer loss of sunlight from the development;

-the south side of these gardens are on higher ground as they slope down towards the proposed development;

therefore the entire garden space is usable and the existing development will not suffer from overshadowing.

The apartments will back onto the rear garden of N. 56, and there is a separation distance of just over 2 metres between the two. Levels are approximately similar. While this separation between a 2 storey building and the private amenity of an adjacent dwelling is considered not to be acceptable given that the rear garden area of No. 56 is very generous for this urban area (approx 155 sq m) and that only a small corner to the garden area will be blocked out by morning sun for a short period, with the remaining amenity not being impacted, it is my view that this relationship is acceptable in this case. In terms of overall daylight provision for the proposed development, I am satisfied that the apartment units will receive enough light to allow for a pleasant internal living environment.

Properties to the north will not be impacted due to separation between properties. No. 62 to the north will have limited impacts on existing amenity space as there is a domestic building to the rear of No. 62 that will shield/screen any impacts of overshadowing/overlooking/over dominance from the proposed development.

A 1.8m high close boarded fence to the western and southern boundaries will also protect existing and proposed amenity space and this can be conditioned prior to the occupation of any unit hereby permitted.

The windows on ground level will not overlook adjacent private amenity space. The first floor windows to the eastern elevation look towards land to the east which is disused shrub land and will not overlook any amenity. There is a high level window to the first floor of the southern elevation which provides natural light to the kitchen area of a 1 bed apartment. The bottom of this window is 1.5m above floor level within this apartment therefore does not lend itself to overlooking, therefore in my view is acceptable.

There are 2 windows with potential overlooking of private amenity space at first floor level on the western elevation. One of these windows serves a landing area to a first floor 2 bed apartment, and the bottom of this window is 1.5m above internal floor level of this apartment which does not lend itself to overlooking as it will be just above eye level. Another window in this elevation serves a bedroom. While adjacent amenity space will be clearly visible from this window, it will overlook only part of the rear amenity of No. 56, with the remainder of amenity remaining private.

It is my view that objector's concern in relation to these amenity have been addressed and are not determining in this instance.

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

Objectors raise concern that this development will increase anti-social behaviour along this alleyway. I contend that anti-social behaviour will decrease with this proposal. A lot of shrub land will be cleared along with a disused garage, and the new development will provide surveillance over this area of laneway. Plus, vehicles will now be using part of this access way which will be widened thus increasing exposure to this area and walkway. In my opinion people will feel safer walking along this area than the current situation.

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

However, Annex E to this Addendum states that in recognition of the desirability of promoting increased density housing in appropriate locations, Policy LC 1 will not apply to;

- designated city centres, and designated town centres within large towns.

As this proposal is located within the designated town centre of Dungannon, policy LC 1 is not applicable to this proposal. In saying that I feel that the density is not significantly greater than what currently exists, that the proposal increases the diversity of housing types in the area to cater for people with varying needs, and, is broadly in keeping with the character of the area, while achieving greater densities within town centres without creating town cramming.

It is noted that the apartment sizes fall just below Space Standards contained within Annex A to the addendum and this was raised by an objector. However given that this proposal is in a town centre location, these space standards are not applicable in this instance. The objectors concern in this regard are not determining in this instance.

The objector makes reference to a planning appeal. This appeal relates to a different site, within a different town, different context and is outside of a town centre boundary. Therefore, I do not see both sites as directly comparable and limited weight can be applied from this judgement to this particular case. Each case will be assessed individually on the basis of its own merits.

PPS 3 Access, Movement and Parking sets out the policies for vehicular and pedestrian access, transport assessment, protection of transport routes and parking.

Objectors have raised concerns about access arrangements in terms of road safety. DfI Roads were consulted on this proposal and have not raised any such concerns, and with all things considered are recommending approval subject to conditions.

#### **Other Considerations**

This site is not subject to flooding. No concern was raised by Environmental Health over land contamination. NIW raise no concern over sewage capacity, plus with a previous permission on site this would have been taken into consideration in NIW capacity calculations as committed development. NIW also indicate that the proposal is under Article 161 agreement.

One objector raised concern that development of this site would decrease their property value. Property values are not a material consideration in determining planning applications, rather attention is paid to impact on amenity and adjoining land uses.

One objector states that their human rights not being respected by this proposal; The Human Rights Act 1998 incorporated provisions of the European Convention on Human Rights (ECHR) into UK law. The general purpose of the ECHR is to protect human rights and fundamental freedoms and to maintain and promote the ideals and values of a democratic society. It sets out the basic rights of every person together with the limitations placed on these rights in order to protect the rights of others and of the wider community.

The specific Articles of the ECHR relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

These human rights are inbuilt in the planning process in that issues relating to amenity are explicitly considered, everyone has the right to express a view and that view is taken into account in determining an application. If there is dissatisfaction, there is ability to defer to the Courts.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That permission is granted subject to the following conditions.

### **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 the occupation of 50% of the apartments hereby approved, the developer shall construct, layout and plant all landscaped and open space areas (including garden area) as indicated on the approved plan drawing no. 01 date received 14th November 2018.

All hard and soft landscaping works shown on the approved plans shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice.

Reason: To ensure the provision, establishment and maintenance of a high standard of landscape to aid the integration of the development into the local landscape in a timely manner and to assist in the provision of a quality residential environment in accordance with PPS7 Quality Residential Development and PPS8 Open Space, Sport and Outdoor Recreation.

3. No dwelling unit/apartment hereby approved shall be occupied until the Planning Authority agrees in writing that an acceptable Management and Maintenance Agreement has been signed and put in place with an appropriate management company for all areas of open space and landscaping as identified in condition no.02 .

Reason: To ensure that the open space provided is managed and maintained, in perpetuity, in accordance with the Department's Planning Policy Statement 7 (PPS7)- Quality Residential Environments, and Planning Policy Statement 8 (PPS8)-Open Space, Sport and Outdoor Recreation.

4. Prior to the occupation of any unit of accommodation hereby approved all boundary treatments shall be in place in accordance with details indicated on drawing No. 02 date stamp received 14th November 2018 unless otherwise agreed in writing by Mid Ulster Council.

Reason: In the interest of safeguarding private amenity.

5. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 01 date stamp 14 November 2018 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

6. The existing private access shall be widened to 4.8 metres for the first 10.0 metres.

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

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

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

**Signature(s)**

**Date:**

**ANNEX**

<b>Date Valid</b>	27th November 2018
<b>Date First Advertised</b>	13th December 2018
<b>Date Last Advertised</b>	20th December 2018
<b>Details of Neighbour Notification (all addresses)</b> Oonagh Given 10 Caman Park, Strathroy, Omagh, BT79 7XA The Owner/Occupier, 18 Woodlawn Park Dungannon Tyrone The Owner/Occupier, 18a Woodlawn Park, Dungannon, Tyrone, BT70 1AH The Owner/Occupier, 54 Union Place Dungannon Tyrone P P Donnelly 54 Union Place, Dungannon, Tyrone, Northern Ireland, BT70 1DL The Owner/Occupier, 56 Union Place Dungannon Tyrone Ann McNaney 56, Union Place, Dungannon, Tyrone, Northern Ireland, BT70 1DL The Owner/Occupier, 58 Union Place Dungannon Tyrone Mark Steenson 58 Union Place, Dungannon, Tyrone, BT70 1DL The Owner/Occupier, 60 Union Place, Dungannon, Tyrone, BT70 1DL The Owner/Occupier, 62 Union Place Dungannon Tyrone The Owner/Occupier, 64 Union Place Dungannon Tyrone The Owner/Occupier, 64a Union Place, Dungannon, Tyrone, BT70 1DL	
<b>Date of Last Neighbour Notification</b>	5th December 2018
<b>Date of EIA Determination</b>	NA site only 0.3 ha



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1623/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of new access and associated turning bay at existing commercial yard (TAF and Auto Track)	<b>Location:</b> Lands at 200m west of 66A Kilnacart Road Dungannon
<b>Applicant Name and Address:</b> Mr Niall Mc Cann 66A Kilnacart Road Dungannon	<b>Agent name and Address:</b> CD Consulting 75 Creagh Road Tempo Enniskillen BT94 3FZ
<b>Summary of Issues:</b>  Objections received raise issues of; overdevelopment of site non compliance with enforcement notice Env impact, dust, silt and debris noise and light pollution Road safety due to heavy lorries from the applicant	
<b>Summary of Consultee Responses:</b> EHO – no objections provided times for use are restricted DFI Roads – no road safety concerns have been identified, objections have been considered	
<b>Characteristics of the Site and Area:</b>  The red line of the site contains an access laneway off the Kilnacart Road between two approved infill dwellings and then opens into a rectangular shaped hard cored turning and parking area to the rear. The access laneway is laid in gravel with tree lined boundary on both sides and a set of high metal gates set back about 20 metres from the roadside. The garage that was approved for	

one of the dwellings has been approved for conversion to a dwelling and the original foundations of the approved dwelling have been removed.

The application site sits between No's 60a and 60 to the west and No. 66 to the east. There are no properties directly opposite or facing onto the site, outline planning permission has been granted opposite for 2 dwellings and the details for these houses are under consideration. No. 59, 61 and 65 are located nearby, also on the opposite side of the road. In terms of topography, the site falls away gradually from the roadside to the north and the land also falls to the east.

The wider area surrounding the site exhibits an undulating character. The application site is located on Kilnacart Road, Dungannon, Co. Tyrone. The site is located within the open countryside as designated within the Dungannon and South Tyrone Area Plan 2010.

### **Description of Proposal**

This proposal seeks the retention of new access and associated turning bay to serve the approved yard to the rear.

### **Deferred Consideration:**

This application was before the Planning Committee in August 2019 where it was deferred to allow the applicant to submit additional information for consideration in relation to the need for the new entrance. Additional inspections at the time identified the yard area was enlarged and a new application was submitted for that area, it is dealt with under application, which is also on the schedule for this meeting. Members are advised the access has been created to serve an approved yard and an extension to that yard which is subject of application, LA09/2019/1648/F being recommended for approval. The applicant has provided evidence to demonstrate that access to the existing yard is no longer available to him and he need this new access to operate his established business.

The issues raised in respect of this application by objectors centred on the appearance of the access, noise and other nuisance from the use of this access (dust and fumes) and the road safety implications of an additional access at this position. Previously the application was to serve a small yard extension at the NE of the site, however the access is now to serve a larger yard area at the rear of 2 sites for dwellings that were approved on an infill basis along this side of the Kilnacart Road. Members are asked to note that opposite the site, 2 additional sites have been passed for infill dwellings, these are currently awaiting determination in relation to how waste water from the development will be dealt with. This area has experienced recent development pressures, in line with the current planning policies and has a built up appearance. (Fig 1)



Fig 1 – aerial view of the site and surroundings

This access is between a site for a dwelling and an approved dwelling, it is been defined by a tree lined concrete laneway with wing walls and piers at the roadside either side of the access. (Fig 2)



Fig 2 – access viewed from directly in front on Kilnacart Road

The laneway is now well established in the landscape here, whilst it has been concreted, it is not dissimilar to other lanes nearby. To the west a lane provides access to a dwelling and farm at the west boundary of the new yard and a laneway across the road, provides access to farmlands. I consider the lane is in keeping with the character of the area, which as identified has taken on a developed character in recent times.

EHO were consulted in respect of noise nuisance from heavy vehicles using this access. EHO have assessed the trips that have been identified on the Transport Assessment Form (TAF) submitted with the application, which identifies there are 11 HGV trips to or from the site on Mondays and Fridays, with the peak time being 7 – 8am on Monday and 7 – 8pm on Fridays, there are 4 HGV movements daily on Tuesday, Wednesday and Thursday. Taking this into account EHO have advised they have no objections provided the movements of HGVs to and from the site do not extend outside the hours of 7am – 8pm Monday to Friday, 8am – 1pm on Saturdays and at no time on Sundays. I consider this can be controlled by a condition and I feel this is necessary to protect the amenity of the neighbouring properties in Kilnacart Road.

DFI Roads have been consulted with the TAF and auto tracking that shows how vehicles can access and egress the site safely. The TAF has noted the numbers of vehicles using the road will not change as these have been displaced from using the other access to the east, lower down the road. DFI Roads have not raised any concerns about the access here and have asked the sight lines are kept clear and that no mud or debris is allowed to be deposited on the road.

My personal experience on the road is that this access is safer than the access lower down the hill, as vehicles can enter and leave this access in forward gear whereas, due to the location of the buildings in the yard, it can be a regular occurrence to meet vehicles reversing into the access to the east.

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

As the development has been further assessed by EHO and DFI Roads, who have not raised any issues of concern and the access is for an expansion of a yard that has been considered acceptable, I recommend this application is approved.

**Conditions:**

1. This decision notice is issued under Section 55 of The Planning Act (Northern Ireland) 2011

Reason: This is a retrospective application.

2. The access hereby approved shall not be used for LGVs, HGVs or other large machinery outside the hours of:  
0700hrs to 2000hrs on Monday to Friday  
0800hrs – 1300hrs on Saturdays and  
At no time on Sundays

Reason: In the interests of residential amenity

3. The vehicular access, including visibility splays of 2.4m x 80.0m in both directions and any forward sight distance, shall be provided in accordance with Drawing No.3A bearing the date stamp 25 November 2021, within 3 months of the date of this decision. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm

above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

4. The landscaping along the sides of the access laneway, as identified in yellow on drawing No 2C bearing the stamp dated 8 AUG 2019 shall be permanently retained at a height no less than 3 metres above the level of the lane. Any trees that die or are dying within 5 years of the date of this permission shall be replaced in the same position with a tree of a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s):**

**Date**



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1623/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of new access and associated turning bay at existing commercial yard.	<b>Location:</b> Lands at 200m west of 66A Kilnacart Road Dungannon
<b>Referral Route:</b>	<b>Objections received</b>
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Niall Mc Cann 66A Kilnacart Road Dungannon	<b>Agent Name and Address:</b> CD Consulting 75 Creagh Road Tempo Enniskillen BT94 3FZ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

**Representations:**

Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received

Number of Petitions of Objection and signatures	No Petitions Received
<p><b>Summary of Issues</b></p> <p>One third party objection received from kilnacart residents group.</p> <p>Issues included;  overdevelopment of site  non compliance with enforcement notice  Env impact, dust, silt and debris  noise and light pollution  Road safety</p>	
<p><b>Characteristics of the Site and Area</b></p> <p>The red line of the site contains an access laneway off the Kilnacart Road between two approved infill dwellings and then opens into a rectangular shaped hard cored turning and parking area to the rear. The access laneway is laid in gravel with tree lined boundary on both sides and a set of high metal gates set back about 20 metres from the roadside. There is a recently constructed garage as part of the approved infill dwelling to the south of the turning area, however neither of the two approved dwellings have been constructed.</p> <p>The application site sits between No's 60a and 60 to the west and No. 66 to the east. There are no properties directly opposite or facing onto the site, however No. 59, 61 and 65 are located nearby on the opposite side of the road. In terms of elevation the site rises to the south side where it meets the Kilnacart Road and the overall topography of the site gradually decreases in elevation towards the north.</p> <p>The wider area surrounding the site exhibits an undulating character. The application site is located on Kilnacart Road, Dungannon, Co. Tyrone. The site is located within the open countryside as designated within the Dungannon and South Tyrone Area Plan 2010.</p>	
<p><b>Description of Proposal</b></p> <p>This proposal seeks the retention of new access and associated turning bay at existing commercial yard.</p>	
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>The following policy documents provide the primary policy context for the determination of this application;</p> <ol style="list-style-type: none"> <li>1. Strategic Planning Policy Statement (SPPS).</li> <li>2. Dungannon and South Tyrone Area Plan 2010.</li> <li>3. Planning Policy Statement (PPS) 3 - Access Movement and Parking.</li> <li>4. PPS 21 - Sustainable Development in the Countryside.</li> <li>5. PPS 4 - Planning and Economic Development.</li> </ol>	

## **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, one third party objection has been received, see consideration below.

The objection received was from kilnacart residents group.

Issues raised included;

-overdevelopment of site - This issue was levelled at the Kilnacart road as a whole, and in particular the previous approval for the commercial yard, however, this application is solely dealing with the access road and the new turning bay.

-non compliance with enforcement notice - This issue has been reported to the enforcement team.

-Env impact, dust, silt and debris - Environmental health are the guiding body in this field, they were consulted on this and had no issues.

-noise and light pollution - Environmental health are the guiding body in this field, they were consulted on this and had no issues.

Road safety - Transport NI are the guiding body on such issues, they were consulted and replied with no concerns subject to conditions.

## **Assessment**

The Strategic Planning Policy Statement (SPPS) for Northern Ireland - Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21, PPS 4 and PPS 3 has been retained under transitional arrangements.

Whilst the SPPS identifies that growing a sustainable economy is a key priority, it also stresses the importance of achieving this in an environmentally sensitive manner and sustaining a vibrant rural area by respecting neighbouring amenities and being of an appropriate scale and nature to the area.

Policy CTY 1 of PPS 21 identifies that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One such type is non residential development which involves industry and business uses in accordance with the provisions of PPS 4.

Policy PED2 of PPS4 allows economic development in the countryside where it meets with other specified criteria in policies PED3 and the general criteria in PED9 is relevant to the consideration of all economic development proposals.

PED 3 includes the criteria by which development proposal of the type and nature proposed, should comply with. With regard to the character and setting of the existing rural area PED 3 establishes that development proposals will be permitted where they do not harm the rural character or appearance of the local area and where there is no major increase in the site area.

The application is for the retention of a new access off the Kilnacart Road and a yard extension to an existing and established economic development use in the countryside to allow for vehicle turning and parking.

The scale and in particular the nature of the proposal along with the lack of landscaping both in place and proposed would in my opinion negatively impact upon the local character of the area. Whilst the site area is not massively increasing, the access between the two approved sites is very open and exposed, with a large set of industrial type gates set back from the road. There is also a row of tree trunks planted along the sides which in my opinion rather than aid integration would add to the visual impact of the development. Therefore, I consider that the proposal does not comply with the first part of the policy.

PED 3 clarifies that proposals for expansion will normally be expected to be accommodated through the re-use and extension of existing buildings on the site and where this is not possible new buildings of an appropriate size and scale will be accepted. The proposal does not include the erection of any buildings, however it is noted that the proposed extension area and access is at the opposite end to the bulk of the existing business and existing access and will struggle to integrate as part of the overall development.

On this note, it is important to note that in my opinion the site is creeping west which would lead to concerns over its proximity to third party dwellings and in particular number 62 Kinacart Road and no measures to aid its impact on these dwellings has been proposed.

In all cases of extension to existing economic development sites, the proposal will be expected to integrate effectively and as documented above the lack of both existing and proposed landscaping around the site boundaries will not allow for the proposal to integrate effectively. I am not satisfied that the proposal can be accommodated without any significant adverse impact on rural character.

In addition to the policy criteria contained within PED 2 and PED 3 of PPS 4, economic development proposals will also be expected to meet with the general criteria contained within Policy PED 9.

PED 9.

A proposal of this nature will be required to meet all the criteria set out in PED 9.

In terms of compatibility and surrounding land uses I am not content that the proposal is compliant. Whilst the proposed use includes an extension of the existing yard area, it is over double the size of the existing approved yard within the applicant's ownership, this in addition to the new industrial style access would not be compatible to this area of the Kinacart road.

With neighbouring third party dwellings to the NW and SE as well as approvals for two dwellings to the south the proposal will in my opinion have a high level of impact on the amenities of the nearby residents. The continuous movement of large vehicles will have a detrimental impact on the surrounding properties.

The boundary treatment and means of enclosure which have been provided are not appropriate, neither would they adequately screen the proposal from public view.

Finally, in my opinion satisfactory measures to aid integration in the landscape have not been provided. Providing landscaping will not in my opinion lessen the potential for other nuisance such as noise and general disturbances from vehicle movements.

In consideration of all of the points above coupled with the scale nature of the proposed works I am not content that no third-party dwellings will be significantly negatively impacted upon by the proposed development and the proposal is therefore not compliant with the above policy.

The application site is not located in a flood plain or in an area of archaeological or natural heritage significance and with this in mind I am content that the proposal will not cause a demonstrable impact in this regard.

PPS 3

DFI Roads were consulted on this application as the competent authority in assessing the application from a road safety perspective. DFI Roads returned comment on the file highlighting that they were content with the proposal subject to condition. On this basis I am satisfied that the proposal meets can provide a satisfactory means of access and that it complies with the policy provision contained with PPS 3 - Access, Movement and Parking.

Environmental health were also consulted and responded with no objections subject to conditions. They also clearly stated

"The proposal is to retain the access to the permitted commercial yard permitted under LA09/2017/1431/F and to permit a turning area for large vehicles.

This department has reviewed the decision notice issued for approval of LA09/2017/1431/F dated 3rd May 2018 and note:

Condition 6, 'This extension to the yard shall solely be used for storage of vehicles and trailers ancillary with the adjoining lorry yard and should not be used for the service, maintenance, or washing of Lorries or any other use.'

To this end, Environmental Health has no objection to the proposed, however, should the land use of the area covered by LA09/2017/1431/F change, or should the site intensify in any way, an impact assessment will be required to consider the 2 No. committed developments (both approved under LA09/2017/0587/F).

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019.

The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan.

In light of this the Draft Plan cannot be given any determining weight at this time.

#### Conclusion

On the basis of the assessment above I consider that this proposal fails to meet with the requirements contained within prevailing planning policy and guidance and I recommend that the application is REFUSED.

**Neighbour Notification Checked**

**Yes**

#### Reasons for Refusal:

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

2. The proposal is contrary to Planning Policy Statement 4, Industrial Development, Policy PED 2 and 3, in that the development would, if permitted, have an adverse impact on the environment by virtue of the increase in the site area of the enterprise and its lack of visual integration into the rural landscape.

3. The proposal is contrary to Planning Policy Statement 4, Industrial Development, Policy PED 9, in that the development would, if permitted, be incompatible with adjacent land uses, harming the living conditions of the existing residents, particularly in number 62 Kilnacart Road.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th December 2018
<b>Date First Advertised</b>	3rd January 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner/Occupier, 60 Kilnacart Road Dungannon Tyrone</p> <p>The Owner/Occupier, 60b ,Kilnacart Road,Dungannon,Tyrone,BT70 1PD</p> <p>The Owner/Occupier, 62a ,Kilnacart Road,Dungannon,Tyrone,BT70 1PD</p> <p>The Owner/Occupier, 65 Kilnacart Road Dungannon Tyrone</p> <p>The Owner/Occupier, 66 Kilnacart Road Dungannon Tyrone</p> <p>The Owner/Occupier, 66 Kilnacart Road,Dungannon,Tyrone,BT70 1PD</p> <p>The Owner/Occupier,</p>	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<p>Ref ID: LA09/2018/1623/F            Proposal: Retention of new access and associated turning bay at existing commercial yard.            Address: Lands at 200m west of 66A Kilnacart Road, Dungannon,            Decision:            Decision Date:</p> <p>Ref ID: LA09/2017/0587/F            Proposal: Proposed infill for two dwellings            Address: Land between 60 and 66 Kilnacart Road Dungannon,            Decision: PG            Decision Date: 09.11.2017</p> <p>Ref ID: M/1977/0119            Proposal: 11KV O/H LINES, MV O/H SERVICES            Address: DUNAMONY, DUNGANNON            Decision:            Decision Date:</p>	

Ref ID: M/2003/1590/O  
Proposal: dwelling house  
Address: between 66 & 60 Kilnacart Road, Dungannon  
Decision:  
Decision Date: 07.06.2004

Ref ID: M/2005/1578/Q  
Proposal: Proposed Portal Frane Shed  
Address: Kilnacart Road, Dungannon  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DFI Roads were also consulted and responded with no objections subject to conditions.  
Environmental health were also consulted and responded with no objections subject to conditions.

**Drawing Numbers and Title**

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/0712/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Construction of new general purpose agricultural buildings and associated groundworks	<b>Location:</b> 25m to the North East of 34 Castlecaulfield Road Donaghmore
<b>Applicant Name and Address:</b> Mr Joesph O'Neill 34 Castlecaulfield Road Donaghmore BT70 3HF	<b>Agent name and Address:</b> Ward Design The Gravel 10 Main Street Castledawson BT458AB
<b>Summary of Issues:</b> The development site is in close proximity to a number of archaeological sites. HED have requested an archaeological dig to be carried out to allow full assessment of the site. This has not been carried out despite a number of requests.	
<b>Summary of Consultee Responses:</b> DEARA – business id allocated 15/05/2015 following merger of 2 active and established buisnesses DFI Roads – Additional lands required on opposite side of road for 60m fsd HED – Archaeological Programme of Works agreed for archaeological assessment of the site, the programme of works must be carried out and a report submitted for consideration.	
<b>Characteristics of the Site and Area:</b>  The site comprises a rectangular shaped portion of a larger agricultural field and associated access through the existing yard located 25 metres to the NE of number 34 Castlecaulfield Road, Donaghmore. The red line of the site includes the lower portion of a steeply sloping agricultural field adjacent to a large two storey dwelling at number 24. The site is accessed via the existing yard dividing two large sheds and looping around the rear of the existing dwelling. The North of the site is undefined on the ground but the steeply sloping bank acts as a backdrop. To the east the site is undefined, to the west the site is bounded by a post and wire fence separating it from	

the dwelling at number 24 and to the south along the roadside there is a low cropped native species hedgerow and a number of mature trees. The yard and some buildings to the south west of the site were being used in connection with an existing car wash and valeting business, with the remainder of the yard and buildings to the west still retained in agricultural use.

There is direct access to the site from Castlecaufield Road and the site is located in open countryside, just on the outskirts of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. The roadside boundary of the site is open to the public road with no specific entrance/exit area.

**Description of Proposal**

The proposal seeks full planning permission for the construction of new general purpose agricultural buildings and associated works.

**Deferred Consideration:**

Members will be aware from the committee meeting on 1 March 2022, this application was deferred to allow one final opportunity for the applicant to provide the information that Historic Environment Division have requested to allow them to fully consider this development on this site.

A letter was issued on 3<sup>rd</sup> March 2022 requesting the additional information within 14 days, this was acknowledged by Mr Ward, the agent dealing with the application. Mr Ward advised he would notify the applicants and seek consent to obtain the additional information. Members will note from the previous report this information has been requested on a number of occasions since the HED comment on 10 April 2020 and this was the final opportunity to submit to allow the application to progress. Nothing further has been received and no further correspondence has been received to indicate this information will be forthcoming.

In light of the above and the previous requests, it is my recommendation this application is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policy BH3 – Archaeological Assessment and Evaluation of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage and Article 3(6) of the Planning (General Development Procedure) Order (NI ) 2015 in that insufficient information has been submitted to enable the Council to fully consider the impacts from the proposed development on archaeological remains.

**Signature(s):**

**Date**

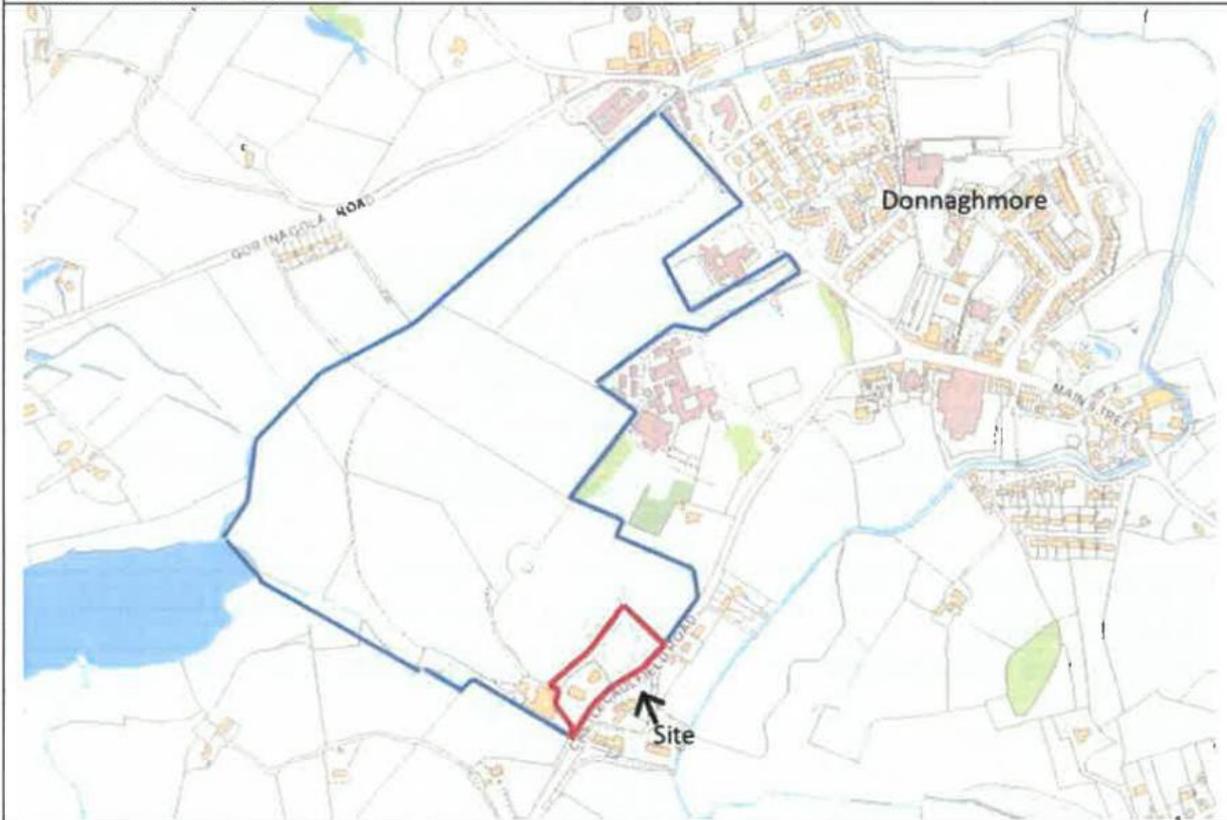


## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0712/F	<b>Target Date:</b>
<b>Proposal:</b> Construction of new general purpose agricultural buildings and associated groundworks	<b>Location:</b> 25m to the North East of 34 Castlecaulfield Road Donaghmore
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Joesph O'Neill 34 Castlecaulfield Road Donaghmore BT70 3HF	<b>Agent Name and Address:</b> Ward Design The Gravel 10 Main Street Castledawson BT458AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Advice

### Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

None

**Characteristics of the Site and Area**

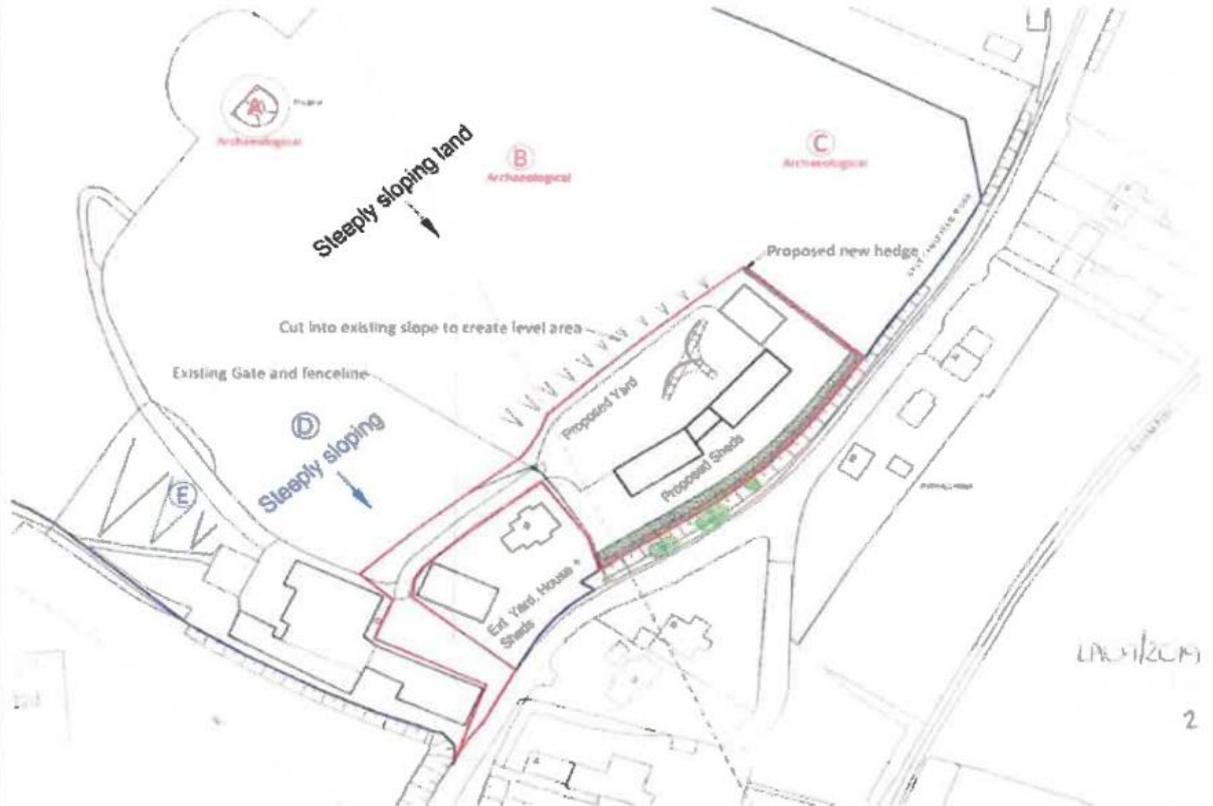
The site comprises a rectangular shaped portion of a larger agricultural field and associated access through the existing yard located 25 metres to the NE of number 34 Castlecaulfield Road, Donaghmore. The red line of the site includes the lower portion of a steeply sloping agricultural field adjacent to a large two storey dwelling at number 24. The site is accessed via the existing yard dividing two large sheds and looping around the rear of the existing dwelling. The North of the site is undefined on the ground but the steeply sloping bank acts as a backdrop. To the east the site is undefined, to the west the site is bounded by a post and wire fence separating it from the dwelling at number 24 and to the south along the roadside there is a low cropped native species hedgerow and a number of mature trees. The yard and some buildings to the south west of the site were being used in connection with an existing car wash and valeting business, with the remainder of the yard and buildings to the west still retained in agricultural use.

There is direct access to the site from Castlecaulfield Road and the site is located in open countryside, just on the outskirts of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010. The roadside boundary of the site is open to the public road with no specific entrance/exit area.



## Description of Proposal

The proposal seeks full planning permission for the construction of new general purpose agricultural buildings and associated works.



## Planning Assessment of Policy and Other Material Considerations

### Assessment

#### Mid Ulster Development Plan 2030 ? Draft Plan Strategy

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

#### Other Policy Considerations

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside;

- Policy CTY 1 Development in the Countryside
- Policy CTY 12 Agricultural and Forestry Development.
- Policy CTY 13 Integration and Design of Buildings in the Countryside
- Policy CTY 14 Rural Character

Planning Policy Statement 6 (PPS6) Planning, Archaeology and Built heritage.

- Policy BH3 Archaeological Assessment and Evaluation.

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

3rd Party Objections

No objections have been received.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) 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 retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

In paragraph 2.3 of the SPPS it states ?The basic question is not whether owners and occupiers of neighbouring properties would experience financial loss from a particular development, but whether the proposal would unacceptably affect the amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured. The proposed agricultural shed will be located 35m from the nearest third party dwelling at number 45 Castlecaulfield Road. It will be used for the storage of farm machinery, equipment and vehicles, it is my opinion that due to the separation distance from the nearest dwelling it will not have a significant impact on the amenity of number 45.

The SPPS gives provision for Agriculture and Forestry Development subject to a number policy provisions. It does not present any change in policy direction with regards to this type of development in the Countryside. As such, existing rural policy will be applied (ie) CTY 12 of PPS 21.

PPS 21 - Sustainable Development in the Countryside



Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy. Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

a) It is necessary for the efficient use of the agricultural holding.

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for and claimed SFP since 2015 at which point two previous active business IDs were merged, both of which claimed SFP in their own right. There is sufficient information to show that the farm is both established and currently active.

This proposal for 4 no. agricultural building, to provide storage for farm machinery and equipment. The principal farm holding including the yard, buildings and dwelling are located immediately adjacent to the site.

b) It is appropriate to the location in terms of character and scale.

The surrounding area is rural in character. These sheds are all typical of agricultural buildings which are found in this rural area, however, the appearance of 4 sheds side by side is rather large in scale, the applicant has attempted to elevate this issue by breaking up the mass with a smaller shed in the middle of the two larger ones. Given the nature of this building, and the size and scale of the existing farm holding it is considered appropriate to the location. The materials and finishes are typical of this type of building and are acceptable in the rural area.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

The shed is set back approx. 25m from the public road, accessed via a laneway which dissects the existing yard. The site benefits from mature boundary of vegetation to the south which will somewhat screen views of the shed from the public road and with appropriate planting to reinforce this boundary and add planting to the NE, the visual impact will be reduced. The topography of the site with the steep hill to the rear will also lessen the impact. In my view, given the design, size and scale of the building and existing vegetation this proposal will integrate into the landscape.

d) It will not have an adverse impact on the natural or built heritage.

The shed will be used for storage and it does not have an underground tank for slurry collection so there should be no issues around ammonia emissions. I therefore have no concerns around its impact on natural heritage.

A desktop search has identified the presence of 3 potential historical sites to the rear of the site and therefore HED were consulted to assess the impact on the built heritage.

HED Monuments requested an archaeological evaluation as per BH3 is submitted to permit a reasoned and informed planning decision.

The applicant submitted an archaeological programme of works and upon further consultation with HED, they have reviewed the submitted programme of works and are not in a position to agree the POW until amendments to the methodology are made. As such, the methodology should be amended for a site evaluation scenario rather than mitigation / excavation. A provision should be included to allow for the resolution of the evaluation on site with the HED planning casework officer if any remains are uncovered. They have stated that these points must be addressed before they will agree the programme of works.

The applicant submitted a revised archaeological programme of works and upon review HED were satisfied that this document allayed previous concerns and they agreed with the mitigation strategy, and were content for this to proceed to archaeological licensing.

HED advised that this is only the first step in compliance with the request for further information in the form of an archaeological evaluation. This will not be fully satisfied until the programme of works has been implemented on site by a licensed archaeologist, and a final report detailing the results of the archaeological investigation has been submitted to HED (Historic Monuments).

The applicant is reluctant to bear the expense of the assessment, however, commissioned the assessment, a mitigation strategy and a proposed excavation methodology. However, HED have asked for further works including the physical evaluation and report on same which despite numerous requests, the applicant has failed to submit. The applicant has suggested approval by way of negative condition, however, the council and HED are not content with this proposal and require the physical evaluation to be carried out before any such approval.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

The shed will be located 35m from the closest third party dwelling, at number 45. At this distance I would have concern about the impact on residential amenity by way of noise. In addition the applicant has designed the proposal in such ways as to create a cloister which would help to attenuate any noise.

In the case where a new building is proposed the following points should be met:

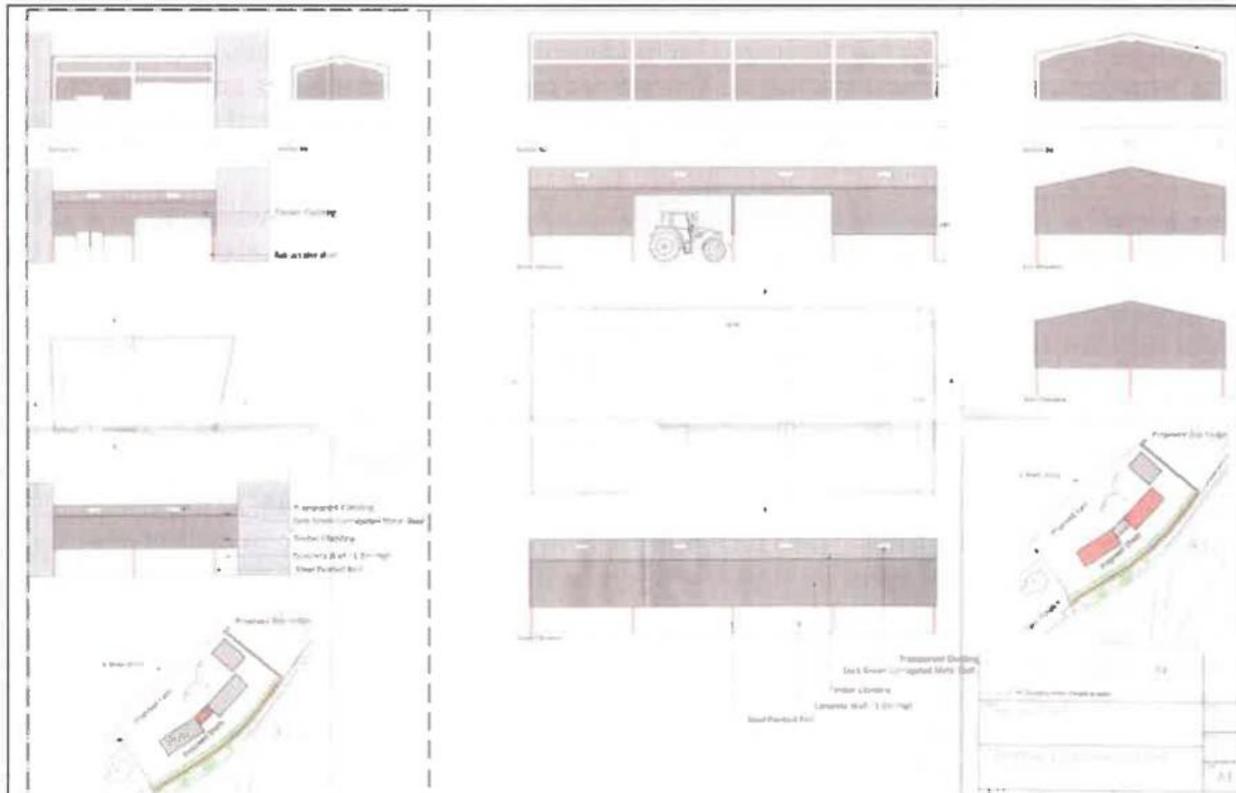
-There are no suitable existing buildings;

No suitable buildings are available on the holding. As previously discussed, the farm holding including a number of buildings are all currently in use.

-The design and materials are sympathetic to the locality;

The sheds whilst significant in size are also of a simple design and buildings of this style are characteristic of the rural area.

-It is sited beside existing farm buildings.



Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As detailed in my assessment above, these points have been covered.

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. The shed is agricultural in nature and will not cause a detrimental change to the rural character of this area. This shed also benefits from the backdrop of the steep bank to the rear, the existing buildings to the side as well as proposed landscaping to the front and remaining side.

DFI Roads were also consulted and after a number of amendments to FSDs were content to approve subject to condition;

The vehicular access, including visibility splays of (2.4m \* 60.0m) and (60.0m) forward sight distance shall be provided in accordance with Drawing No 8 B bearing the date stamp 7 January 2020, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Planning Policy Statement 6 (PPS6) Planning, Archaeology and Built heritage.

- Policy BH3 Archaeological Assessment and Evaluation.

This policy is applicable in this instance and it states that where the impact of a development proposal on important archaeological remains is unclear, or the relative importance of such remains is uncertain, the Department will normally require developers to provide further information in the form of an archaeological assessment or an archaeological evaluation. Where

such information is requested but not made available the Department will normally refuse planning permission.

In this case as detailed above the applicant has not provided all the information HED has requested and therefore is contrary to PPS6 BH3.

**Other Considerations**

This site is not subject to flooding and there are no land contamination issues with the site.

Having weighed up the above policy and material considerations I am of the opinion that this application should be recommended for REFUSAL on the grounds of lack of information and contrary to PPS 6 Policy BH3.

**Neighbour Notification Checked**

**Yes**

**Reasons for Refusal:**

The proposal is contrary to Policy BH3 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage and Article 7(4) of the Planning (General Development) Order (NI) 1993 in that insufficient information has been submitted to enable determination of the planning application as the archaeological assessment/evaluation requested by the Council has not been made available.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	24th May 2019
<b>Date First Advertised</b>	6th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner/Occupier, 18a ,Castlecaulfield Road,Dungannon,Tyrone,BT70 3PQ</p> <p>The Owner/Occupier, 33 Castlecaulfield Road Dungannon Tyrone</p> <p>The Owner/Occupier, 34 Castlecaulfield Road,Dungannon,Tyrone,BT70 3HF</p> <p>The Owner/Occupier, 35 Castlecaulfield Road Dungannon Tyrone</p> <p>The Owner/Occupier, 39 Castlecaulfield Road,Dungannon,Tyrone,BT70 3HF</p> <p>The Owner/Occupier, 39a ,Castlecaulfield Road,Dungannon,Tyrone,BT70 3HF</p> <p>The Owner/Occupier, 45 Castlecaulfield Road Dungannon Tyrone</p> <p>The Owner/Occupier, 45a Castlecaulfield Road, Dungannon, Tyrone, BT70 3HF</p> <p>The Owner/Occupier, 47 Castlecaulfield Road,Dungannon,Tyrone,BT70 3HF</p>	
<b>Date of Last Neighbour Notification</b>	4th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<p>Ref ID: LA09/2019/0712/F            Proposal: Construction of new general purpose agricultural buildings and associated groundworks            Address: 25m to the North East of 34 Castlecaulfield Road, Donaghmore,            Decision:            Decision Date:</p> <p>Ref ID: M/2004/0140/O            Proposal: Replacement 2 Storey Dwelling            Address: 34 Castlecaulfield Road, Donaghmore, Dungannon            Decision:            Decision Date: 23.06.2004</p>	

Ref ID: M/1973/0089  
Proposal: EXTENSION AND IMPROVEMENTS TO FARMHOUSE  
Address: MULLYGRUEN, DONAGHMORE, DUNGANNON  
Decision:  
Decision Date:

Ref ID: LA09/2015/0788/F  
Proposal: Retention of change of use of a Redundant Agricultural Building and Partial External Yard Area to Facilitate a Car and Agricultural Vehicle Wash Facility  
Address: Lands Adjacent to and SW of 34 Castlecaulfield Road, Donaghmore,  
Decision: PG  
Decision Date: 09.05.2017

**Drawing Numbers and Title**

Drawing No. 06  
Type: Cross Sections  
Status: Submitted

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

Drawing No. 03  
Type: Site Layout or Block Plan  
Status: Submitted

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

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

Drawing No. 07  
Type: Cross Sections  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0024/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed 3No. lodges for short term accommodation to facilitate access to adjacent lough shore nature area	<b>Location:</b> 210m South West of 35 Brookend Road Ardboe
<b>Applicant Name and Address:</b> Donal Coney 35 Brookend Road Ardboe BT71 5BR	<b>Agent Name and Address:</b> Donal Coney 35 Brookend Road Ardboe BT71 5BR
<b>Summary of Issues:</b> No existing tourism development or farm diversification to associate with.	
<b>Summary of Consultee Responses:</b> DFI Roads - safe access will require sight lines of 2.4m x 60.0m at the public road, these are achievable SES – additional information required to consider impacts on SPA/RAMSAR NIEA - additional information required to consider impacts on SPA/RAMSAR	
<b>Characteristics of the Site and Area:</b>  This site is located in the open countryside approximately 3km SW of Ardboe as the crow flies, with the shores of Lough Neagh located approximately 750m to the east of the site. SE of the site there is woodland between the site and the shores of Lough Neagh. The proposed site is located within a rural area characterised by agricultural fields and dispersed dwellings, however in the immediate locality there is a medium degree of development pressure.  The site is located along a private laneway, set back approximately 260m in the corner of an existing agricultural field. Adjacent to the access laneway is 2 single storey dwellings, No. 37 and 39 Brookend Road. To the rear of these dwellings there is an area of hardstanding and a large shed which spears industrial in design and was granted planning	

permission for the storage and repair of boats. The access laneway, which also serves the large shed, is bounded at both sides by mature hawthorn hedgerows. Planning permission (LA09/2020/0347/O) was recently granted for a dwelling and garage to the rear of the storage shed which proposes to also use the existing access.

The south west boundary of the site is defined by mature trees with the remaining boundaries not clearly defined.

### **Description of Proposal**

This is a full planning application for 3 no. lodges for short-term accommodation to facilitate access to adjacent Lough Shore Nature Area.

### **Deferred Consideration:**

This application was last before the Planning Committee in November 2021 with a recommendation to refuse, prior to that meeting an amended scheme was submitted, the application was deferred to allow assessment of the amended scheme.

The amended scheme now proposes 2 bedroom lodges which will be 6.7m wide, 13.8m deep with pitched roofs and 5.5m ridge height. They will be orientated with the gables on the short walls, facing towards Lough Neagh. The gables will have a stone finish with a full height window facing the lough, red cedar to the side walls and slate roofs. The 3 lodges will be located in a flat semicircle with informal parking spaces between them. In my opinion this design and layout is much more in keeping with tourist accommodation and does not promote fulltime living.

The proposal has been assessed against PPS16 – Tourism Policies, the applicant has indicated he is a farmer who lets out his land to another farmer and has paid a contractor to cut and maintain his hedges for 20 years. In light of this the application will also be assessed against Policy CTY11 – Farm Diversification.

The headline to CTY11 requires the applicant to demonstrate that and proposal it is to be run in conjunction with the agricultural operations on the farm. In this case the applicant has advised they have let the land to another farmer and they employ a contractor to cut the hedges. They have not indicated there carry out any other agricultural activities and as such I do not consider the applicant has demonstrated the proposal will be run in conjunction with agricultural activities on the farm.

CTY11 has a number of other criteria that should be applied:

- a) the farm business is currently active and established,

Members will be aware that consideration of the agricultural business relates to submission of information to show there is an investment in the kind and a return from the investment and that it is agricultural related. In this case the applicant owns the land, he has advised that he lets it out to another farmer, but has not indicated for how long this arrangement has been in place, he has provided a letter from a contractor to advise the hedges have been cut and maintained by the contractor for 20 years. I do not doubt this would meet the threshold for an active and established farm, from my site visit I noted there were cattle in the field, which I consider demonstrates currently active farming. I consider this is met.

- b) character and scale is appropriate to the location:

these 3 buildings sited with the extensive treed area to the west and along part of the frontage of the site, down this lane and well away from the main public views, would, in my opinion blend in sympathetically with the surroundings. Additional landscaping on the boundaries will also assist the development to be further integrated into the surroundings over time. I consider this criteria is met.

- c) not adversely impact natural or built heritage:  
there are no identified built heritage assets in the locality that would be impacted. The site is beside Lough Neagh, no information has been provided in respect of the waste water or storm water from the site and how it is to be treated. NIEA and SES have requested additional information to allow them to advise on the impacts from the development and carry out a Habitats Regulations Assessment. No further information has been submitted in respect of this and I have not requested this. I do not consider this criteria has been met.
- d) not detrimentally impact on amenity of nearby residential dwellings:  
the nearest neighbours are located approx. 90m to the north east of the site, these include no 35 Brookend Road, this is the applicants own house. The proposal has the potential for noise as it would be short term holiday lets, however I consider this can be managed and monitored by the applicants to ensure it does not adversely impact the other neighbours. I consider this criteria can be controlled by the applicant and is in their interests

Policy CTY11 is primarily aimed at the conversion of existing farm buildings, it does allow new building in some cases and sets out additional criteria for them. The applicant has not shown any existing farm buildings or explained why these cannot be converted or adapted. I consider there is a need to provide this information to 'justify' any new buildings. As such I do not consider this has been demonstrated

As there has been no justification for a new building. I do not consider the final part of the policy, which requires the new buildings to be integrated with an existing group of buildings, has been engaged. Members should note the new buildings are not sited to be integrated with an existing group of buildings and as such would not meet this criteria anyway.

I do not consider the proposed development meets with the policy for farm diversification as set out in CTY11.

Additional information was provided to show the walking paths to the south west of the application site and bird watching from Brookend Nature Reserve to the south east. Members will be aware from the previous considerations of this proposal that Policy TSM5 – Self Catering Accommodation in the Countryside as contained in PPS16 – Tourism, allows 3 or more new units at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right. It is noted the Nature Reserve is close by and it would, in my view, be counterintuitive to site the development inside the nature reserve, however no further information has been provided to show this is significant visitor attraction. I do not consider this development meets the requirements of TSM5.

As the proposal has not been demonstrated to meet the policies in CTY11 or TSM5, issues in relation to the SES and NIEA considerations and details of waste water and

storm water treatment has not been sought as this would have added expense to the applicant for a scheme that, in principle, has not met any of the planning policies.

Members are advised that taking account of this report as well as the 2 previous reports, I recommend this application is refused for the reasons stated below.

**Conditions/Reasons for Refusal:**

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.

2. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated the proposed development will be run in conjunction with agricultural operations on the farm, there has been no justification for these new buildings and they are not sited to be satisfactorily integrated with an existing group of buildings.

3. The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM5 of Planning Policy Statement 16 Tourism in that it has not been demonstrated that the proposal is located at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right.

4. The proposal is contrary to Policy CTY11 of PPS21, TSM 7 of PPS16 Tourism and PPS2 Planning and Nature Conservation in that insufficient information has been provided to demonstrate that the proposal will not have a detrimental impact on natural heritage features of importance, including Lough Neagh SPA/Ramsar/ASSI.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0024/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed 3No. lodges for short term accommodation to facilitate access to adjacent lough shore nature area	<b>Location:</b> 210m South West of 35 Brookend Road Ardboe
<b>Applicant Name and Address:</b> Donal Coney 35 Brookend Road Ardboe BT71 5BR	<b>Agent Name and Address:</b> Donal Coney 35 Brookend Road Ardboe BT71 5BR
<b>Summary of Issues:</b> Design and appearance of development, it has the appearance of a small housing development, no existing tourism development or farm diversification to associate with.	
<b>Summary of Consultee Responses:</b> DFI Roads - safe access will require sight lines of 2.4m x 60.0m at the public road, these are achievable SES – additional information required to consider impacts on SPA/RAMSAR NIEA - additional information required to consider impacts on SPA/RAMSAR	
<b>Characteristics of the Site and Area:</b>  This site is located in the open countryside approximately 3km SW of Ardboe as the crow flies, with the shores of Lough Neagh located approximately 750m to the east of the site. SE of the site there is woodland between the site and the shores of Lough Neagh. The proposed site is located within a rural area characterised by agricultural fields and dispersed dwellings, however in the immediate locality there is a medium degree of development pressure.  The site is located along a private laneway, set back approximately 260m in the corner of an existing agricultural field. Adjacent to the access laneway is 2 single storey dwellings, No. 37 and 39 Brookend Road. To the rear of these dwellings there is an area of	

hardstanding and a large shed which spears industrial in design and was granted planning permission for the storage and repair of boats. The access laneway, which also serves the large shed, is bounded at both sides by mature hawthorn hedgerows. Planning permission (LA09/2020/0347/O) was recently granted for a dwelling and garage to the rear of the storage shed which proposes to also use the existing access.

The south west boundary of the site is defined by mature trees with the remaining boundaries not clearly defined.

### **Description of Proposal**

This is a full planning application for 3 no. lodges for short-term accommodation to facilitate access to adjacent Lough Shore Nature Area.

### **Deferred Consideration:**

This application was before the Planning Committee in September 2020 and it was agreed to defer for a meeting with the Planning Manager. A meeting was held virtually on 10 September and the agent was asked to provide additional information to establish the principle of this development prior to any further discussions about the layout and design.

The agent advised the site is associated with Brookend Nature Reserve, they referred to a precedent in application LA09/2019/0806/F and asked that the same considerations be given to this application and advised the applicant would be willing to amend the design and condition the use of the buildings.

Planning application *LA09/2017/0806/F* was approved for 5 self catering cottages at Mill Road Cookstown, that application was considered as a farm diversification scheme and was accepted as within the spirit of policy CTY11 as the proposal is for multiple buildings whereas the policy refers to a new building. Members will be aware that farm diversification must be on an active and established farm. The applicant has indicated they own this 2ha field and when I visited the site there were cattle in the field. On this basis additional information was requested on 24 June 2021 to allow consideration of the farming case. To date no information has been submitted for consideration.

The applicant has identified Brookend Nature Reserve as being close by and one of a number of local amenities. They have been asked to provide some information in relation to or explain their involvement with the nature reserve but have not provided any further information to date. DEARA website sets out 37 Nature Reserves in Northern Ireland, it identifies Brookend Nature Reserve as being open all year round and being remote with little to no facilities. There is no designated parking facilities and car parking is at the end of a rough lane. No information has been presented to show how these properties are associated with the Nature Reserve or any information to illustrate the Nature Reserve is an existing tourist amenity which is or will be a significant visitor attraction in its own right. From the information that has been present and the written description of the Nature Reserve, it appears the site is designated for its habitat and the wide array of ecology it harbors. The site is wetland habitat fen and flood plain grazing, NIEA and SES have both requested additional information to allow further consideration of the impacts of this development on recognised features of importance within the SPA and RAMSAR site. The proposed development could therefore have an adverse impact on the Nature Reserve.

The applicant has been afforded the opportunity to submit additional information in support of this case and has failed to do so. In light of this and I recommend this application is refused for the reasons stated.

**Conditions/Reasons for Refusal:**

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.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM5 of Planning Policy Statement 16 Tourism in that it has not been demonstrated that the proposal is located at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right.
3. The proposal is contrary to Policy TSM5 of Planning Policy Statement 16 Tourism in that the design and layout could provide permanent residential accommodation in the countryside and as such would have a detrimental impact on the rural character of the area and represent an unsustainable form of development in the countryside.
4. The proposal is contrary to Policy TSM 7 of PPS16 Tourism and PPS2 Planning and Nature Conservation in that insufficient information has been provided to demonstrate that the proposal will not have a detrimental impact on natural heritage features of importance, including Lough Neagh SPA/Ramsar/ASSI.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0024/F	<b>Target Date:</b> 22/04/20
<b>Proposal:</b> Proposed 3No. lodges for short term accommodation to facilitate access to adjacent lough shore nature area	<b>Location:</b> 210m South West of 35 Brookend Road Ardboe
<b>Referral Route:</b>  Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Donal Coney 35 Brookend Road Ardboe BT71 5BR	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NIEA	Advice
Non-Statutory	SES	Substantive Response

### 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

### Characteristics of the Site and Area

This site is located in the open countryside approximately 3km SW of Ardboe as the crow flies, with the shores of Lough Neagh located approximately 750m to the east of the site. SE of the site there is woodland between the site and the shores of Lough Neagh. The proposed site is located within a rural area characterised by agricultural fields and dispersed dwellings, however in the immediate locality there is a medium degree of development pressure.

The site is located along a private laneway, set back approximately 260m in the corner of an existing agricultural field. Adjacent to the access laneway is 2 single storey dwellings, No. 37 and 39 Brookend Road. To the rear of these dwellings there is an area of hardstanding and a large shed which spears industrial in design and was granted planning permission for the storage and repair of boats. The access laneway, which also serves the large shed, is bounded at both sides by mature hawthorn hedgerows. Planning permission (LA09/2020/0347/O) was recently granted for a dwelling and garage to the rear of the storage shed which proposes to also use the existing access. The south west boundary of the site is defined by mature trees with the remaining boundaries not clearly defined.

### **Description of Proposal**

This is a full planning application for 3 no. lodges for short-term accommodation to facilitate access to adjacent Lough Shore Nature Area.

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

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Cookstown Area Plan 2010  
Planning Policy Statement 2: Natural Heritage  
Planning Policy Statement 3: Access, Movement and Parking  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Planning Policy Statement 16: Tourism

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd Feb 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25<sup>th</sup> March for 8 weeks. The re-consultation was due to close at 5pm on 21<sup>st</sup> May 2020. In light of this the draft plan cannot currently be given any determining weight.

### **Representations**

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

### **History on Site**

LA09/2019/0573/F - Proposed 2No lodges for short term accommodation to facilitate access to adjacent Lough Shore Nature Area - 210m South West of No 35 Brookend Road, Ardboe – Withdrawn

LA09/2020/0347/O - Proposed dwelling and garage - 120m South West of 39 Brookend Road, Ardboe – Permission Granted 19/08/20

I/2013/0142/F - Proposed building to accommodate Lough Neagh Fishing Boat General Domestic Store (Amended description - P1 and plans) - Lands to the rear of Nos 37 and 39 Brookend Road, Ardboe – Granted 24.01.2014

LA09/2016/0386/F - Single storey side extension to existing dwelling to provide bedroom and en-suite - 37 Brookend Road, Ardboe, Dungannon – Granted 23.05.2016

### **Key Policy Considerations/Assessment**

Cookstown Area Plan 2010 – the site is located outside any settlement limits in proximity to the shores of Lough Neagh. There are designated nature reserves located to the SW and SE of the site. There are no specific plan policies pertaining to this proposal, the

regional planning policy statements will apply until such times as a Local Development Plan is adopted.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21 including tourism development in accordance with the TOU policies contained within PSRNI. These TOU policies have since been superseded by PPS16 - Tourism therefore this proposal will be considered under the relevant policy within PPS16. SPPS does not make any changes to these policy considerations.

Tourism makes a vital contribution to the Northern Ireland economy, it can play an important role in helping to support the viability of many local suppliers, services and facilities. However, tourism accommodation located in the countryside needs to be located at appropriate locations and managed in a sustainable manner in order to protect the rural landscape and environment in line with the area plan and other material considerations. This proposal is for self-catering accommodation in the countryside therefore the provisions of PPS16 TSM5 apply.

TSM5 states that permission will be granted for self-catering units of tourist accommodation should the proposal meet any one of three circumstances. In my view the proposal does not meet any of the circumstances set out in policy as;

- a) it is not located within the grounds of an existing or approved hotel, self-catering complex, guest house or holiday park;
- b) although the proposal is a cluster of 3 units, it has not been demonstrated that the proposal is located at or close to an existing or approved tourist amenity with a significant visitor attraction requiring these units;
- c) it is not for the restoration of an existing clachan or close.

Paragraph 7.25 of Policy TSM5 J&A states *“Where units are proposed in association with a tourist amenity, Policy requires that the tourist amenity must be a significant visitor attraction in its own right.”* The applicant has failed to specify the tourism facility in which the proposal will cater or provide evidence of visitor numbers or the provision of existing facilities linked to and enabling usage of the attraction. It is acknowledged that Lough Neagh is located in close proximity to the application site, however there is insufficient information to demonstrate the numbers of tourists that these cottages would attract or the existing facilities in place that would attract or accommodate them. At present there is no designated walks around the Lough at this location, nor is there any indication that there is existing facilities and/or equipment such as jetties, boats etc in place to cater for tourism. Policy TSM5 J&A states *“Policy provides for sustainable opportunities for self-catering tourist accommodation in the countryside particularly in areas where tourism amenities and accommodation have become established or likely to be provided as a result of tourism initiatives such as the Signature Projects”.* No such signature project exists close to this site and the area does not benefit from established tourism amenities and accommodation.

Paragraph 7.28 of Policy TSM5 J&A states “Permanent residential use of self-catering units will also be deterred through design. Such units will be required to demonstrate an informal site layout with communal open space only. Informal road layout without designated car parking will also be required.” In my view the proposed self-catering units are contrary to Policy TSM5 in that the design and layout could easily be used for permanent residential accommodation. Each has its own defined curtilage, individual parking, own kitchen, living room, bathroom and 3 bedrooms. I have relayed these concerns to the applicant and I received an indicative plan via email with slight amendments to the proposed layout. The amendments do not extend to the floor plans or elevations of the self-catering units rather encompass minor changes to the layout, removing the designated parking and slightly amending the orientation of the units. I do not consider these indicative amendments would deter permanent residential use as designated parking could still be achieved within the curtilage of each unit. Nevertheless, these amended plans to date have not been received in hard copy and to scale.

Policy TSM7 of PPS 16 applies to all types of tourism development and is considered as follows;

- a) I am satisfied that a movement pattern is provided which would support walking, cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way. While access to public transport is not convenient, the settlement of Ardboe is within 2 miles of the site where access to public transport is available.
- b) The design of the buildings appear as dwellings rather than holiday/short term accommodation. However, the site is located adjacent to Lough Neagh which is an ASSI/SAC/RAMSAR site. Shared Environmental Services (SES) require a Preliminary Ecological Appraisal, as well as additional information on the disposal of surface water and sewage, during construction and operation. SES also advise that a Habitat Regulation Assessment is required and that NIEA should be re-consulted once all information is received as there may be impacts on natural heritage interests which are not related to SPA/Ramsar. I requested amendments to the site plan to show the location of the septic tank and soakaways to address the surface water and sewage concerns on 22/07/20 however to date these have not been received. At present it is not possible to full assess impacts on sustainability and biodiversity. The applicant has advised that they have been waiting on an environmental consultant to undertake the requested appraisal which has been delayed given the ongoing COVID 19 pandemic. As I do not consider the proposed development is acceptable in principle and therefore recommending refusal, I do not consider it appropriate that the applicant goes to this expense, however should be permission be granted this will need to be addressed.
- c) The proposed boundary treatment includes a mix of post and wire fencing and natural landscaping. Drawing No.01 date stamped 7<sup>th</sup> January 2020 includes a detailed planting schedule which is considered acceptable. The proposal is set back significantly from the public road with a backdrop of mature woodland therefore I consider there is adequate enclosure and screening. However, given

the proposal is for self-catering units, it is considered communal shared space would have been more appropriate than separated curtilages.

- d) The P1 form states that surface water will be directed to a soakaway. SES require the site layout plan to include the location of the soakaways which was requested 22/07/20 however to date these have not been received. This will need to be addressed should permission be granted.
- e) In my view the proposal is designed to deter crime and promote personal safety, the site is accessed via a private laneway, set back from the public road behind the applicants dwelling.
- f) This proposal does not involve public art therefore this criterion is not applicable.
- g) The immediate surrounding land use is predominantly agricultural land and woodland. The proposed tourism units are set back from the Brookend Road with limited public views. The scale, size and massing of the units are considered modest and will not detract from the landscape quality. However the granting of 3no. residential units, albeit for short term self-catering use, could result in a build-up of development detrimental to the rural character of that area.
- h) It is considered there is sufficient separation distance from neighbouring properties to ensure no detrimental impact on residential amenity.
- i) I do not considered the proposal will have a detrimental impact on features of built heritage. However, further additional information is required by the applicant to demonstrate that features of natural heritage will not be impacted by the proposal.
- j) Additional information is required to demonstrate that sufficient measures are put in place to deal with sewage effluent from the proposal. As mains sewage connection is not available in this location, the sewage will have to be dealt with by septic tank. I requested amendments to the site plan to show the location of the septic tank on 22/07/20 however to date this has not been received.
- k) Access arrangements are in accordance with PPS3 Access, Movement and Parking and Dfl Roads have no objections to this proposal subject to splays of 2.4m by 60m in both directions along with other conditions.
- l) It is considered the proposed access to the public road, subject to conditions suggested by Dfl Roads, will not prejudice road safety.
- m) Dfl Roads raise no objection over extra traffic onto the public road and it is my view the existing road network can accommodate any additional traffic associated with the proposed development.
- n) There is no access to a protected route proposed.
- o) The proposal will not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset.

In terms of policy CTY13 of PPS21, it is my view that the proposal will integrate into the landscape as it is set back from the public road with limited public views and is of a size, scale and location that will not significantly impact the visual character or landscape quality of the area. I consider the proposal will not have a detrimental impact on the rural character of the area and therefore complies with Policy CTY14.

Policy NH1 of PPS2 Planning and Nature Conservation sets out planning permission will only be granted for a development proposal which either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or Ramsar Site. NIEA were consulted on this application and responded with standing advice given no accompanying ecological information had been submitted. As mentioned above, insufficient information has been provided to demonstrate that there will be no detrimental impact to the conservation objectives of nearby Lough Neagh which is a European Protected Site/Natura 2000.

It should be noted that a previous application (LA09/2019/0573/F) for 2No lodges for short-term accommodation to facilitate access to adjacent Lough Shore Nature Area was withdrawn on 11/03/20. The case officer for this Planning Application also considered that the proposal was contrary to Policy TSM5 and TSM7 of PPS16 and recommended refusal. Planning Application LA09/2019/0573/F was presented to the Planning Committee on 1<sup>st</sup> September 2019 with a recommendation to refuse however was subsequently deferred on the basis additional information would be submitted in support of the application and to address SES Natural Environment concerns. No additional information was received and the application was withdrawn 6 months later following the submission of this Planning Application – LA09/2020/0024/F.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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**Summary of Recommendation:**

The proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal:**

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.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy TSM5 of Planning Policy Statement 16 Tourism in that it has not been demonstrated that the proposal is located at or close to an existing or approved tourist amenity that is a significant visitor attraction in its own right.
3. The proposal is contrary to Policy TSM5 of Planning Policy Statement 16 Tourism in that the design and layout could provide permanent residential accommodation in the countryside and as such would have a detrimental impact on the rural character of the area and represent an unsustainable form of development in the countryside.

4. The proposal is contrary to Policy TSM 7 of PPS16 Tourism and PPS2 Planning and Nature Conservation in that insufficient information has been provided to demonstrate that the proposal will not have a detrimental impact on natural heritage features of importance, including Lough Neagh SPA/Ramsar/ASSI.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0273/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Site for dwelling and garage	<b>Location:</b> Land at Tullaghmore Road Roughan Road Cross Roads opposite and 30m south of 57 Tullaghmore Road Dungannon BT71 4EW
<b>Applicant Name and Address:</b> Joanne Badger & Jamie Allen 59 Roughan Road Dungannon BT71 4EW	<b>Agent name and Address:</b>
<b>Summary of Issues:</b> The site does not fit with the clustering policy in CTY2a or cluster or visually link with existing building on a farm as required by CTY10. The site can be considered against the exception within CTY10 and an appropriately designed dwelling will meet the integration and rural character tests required by CTY13 and CTY14. Objections have been received to the proposal and highlight that it does not meet the policies.	
<b>Summary of Consultee Responses:</b> DFI Roads	
<b>Characteristics of the Site and Area:</b> The application site is located at lands located approx. 30m South of 57 Tullaghmore Road, Dungannon. The site is located at a crossroad which joins Roughan Road and Tullaghmore Road. The site is quite flat throughout and has existing hedging along most of its boundaries at present. There is existing dwellings and their associated outbuildings to the north of the site and to the south of the site is Roughan Lough.	

**Description of Proposal**

Outline planning permission is sought for dwelling and garage.

**Deferred Consideration:**

This application was before the members as a refusal in September 2021 where it was deferred for a meeting with the Planning Manager to discuss further. A meeting was held on 14 October 2021 and the potential for a dwelling on a farm was discussed as well as potential locations for any dwelling, if it were to be acceptable in principle.

Follow the meeting additional information was submitted in respect of the applicants parents farming activities and this information was submitted to DAERA for verification. Mr & Mrs Badger had a substantial holding of 14.09ha here until 2009 when part of the land was sold off and there still remains 2.65ha. They diversified into bed and breakfast accommodation in the farm dwelling and retain some of the farm buildings. A letter has been submitted from N Brodison, the farmer who bought the land and takes the remaining land for his farming activities. Mr Brodison advised he has taken the ground for around 20 years and pays an annual fee for this. A letter has been provided from D & R Moffett Ltd that indicates they carry out maintenance works on the farm lands for Mr & Mrs Badger and they are paid an annual fee for this service

Mr Badger was allocated a farm business ID on 19/11/1991 and DAERA have confirmed this is the case, therefore this is an established farm business for the purposes of CTY10 . The applicant has also provided invoices from D & R Moffett Ltd for hedge cutting in 2019 and 2020 as well as copies of their farm select insurance policies for years 20-21 and 21-22. Taking into account this information it shows the applicants are investing in the land's and as such, I am of the view this business is currently active in accordance with the requirements of criteria a in CTY10.

I have checked the farm land that has been identified and can advise there have not been any development opportunities sold off from the holding in the past 10 years and no planning permission has been granted for any dwellings on the land in the past 10 years. I consider criteria b has been met.

Criteria c requires any dwellings to be sited to cluster with or visually link with existing buildings on the farm. The applicants mother and father have a dwelling and buildings on the opposite side of the road to the south west of the application site. The applicants parents own the land along the shore of Roughan Lough, opposite these buildings and a dwelling located to the south would meet with the requirement to visually link with these buildings. In my opinion, any buildings there would take away from the public views of the lough and would be prominent in the landscape as it lacks any features to provide integration. (See Fig 1 & 2)



Fig 1 – view from south of farmhouse and buildings with alternative site on loughshore opposite



Fig 2 – view from north of farmhouse and buildings with alternative site on loughshore opposite

Criteria c has an exception with in that allows a new dwelling to be sited away from the existing buildings on the farm. This is engaged where there are demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing group. Neither of these are applicable here, so the exception does not assist the applicant here.

The site was assessed against CTY2a and it was considered the proposal did not meet one of the 6 stated criteria, in that it does not have development on 2 sides and was not satisfactorily integrated into the existing cluster. Having revisited the proposed site from all approaches, I agree that the site does not meet all the criteria. I do however consider that a single storey dwelling of similar proportions to the dwelling at No57 Tullaghmore Road, would satisfactorily integrate into the site. The field has existing well established hedges on 3 sides, these can be conditioned to be retained and allowed to grow up to screen the site further. Access would have to be from the east corner of the site onto Tullaghmore Road which would ensure the existing hedge to the north is also retained for the most part. A dwelling tucked into the north west corner will, in my opinion not have any significant visual impact on the locality and will read with the other development to the north. (See figs 3, 4 & 5)



Fig 3 site from south



Fig 4 site from west



Fig 5 – site behind hedge when viewed from east

Members are advised that I do not consider the proposal meets all of the criteria in CTY2a and I do not consider the proposal meets the exception in CTY10. That said, due to the established farming case and the site specific conditions here which I consider could limit the visual impacts of a suitable dwelling on the character or the area, I consider an exception to policy could be made in this case. Members are advised that to ensure this dwelling does not result in any detrimental impact on the rural character I am of the view conditions are required to:

- limit the size of the dwelling to 5.5m ridge height,
- site the dwelling and its curtilage in the north west corner of the field,
- access the dwelling from the North East corner (off Tullaghmore Road),
- allow the existing vegetation to the west, north and east boundaries of the site to be retained, augmented and grow to at least 4 metres in height and
- provide some new landscaping to the south boundary of the site.

It is my opinion that an exception to policy may be made for this development for the reasons already set out and that planning permission could be granted for this dwelling with the conditions attached below.

**Conditions:**

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

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

2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved

matters"), shall be obtained from Mid Ulster District Council, in writing, before any development is commenced.

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

3. The dwelling hereby approved shall have a ridge height not exceeding 5.5m above the existing ground level of the site.

Reason: In the interests of visual amenity.

4. The dwelling hereby approved shall be sited in the area identified in yellow on drawing No 01, bearing the stamp dated 25 FEB 2022.

Reason: To respect the rural character of the area.

5. Prior to commencement of any development hereby approved, the vehicular access shall be provided off Tullaghmore Road to the east part of the site, including visibility splays of 2.4m x 160.0m in both directions and forward sight distance of 160.0m, in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter

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

6. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details showing the existing vegetation to be retained along the west, north and east boundaries of the site (except for access purposes), measures for their protection during the course of development and to allow them to grow to at least 4 metres in height and be retained at that height; details of a native species hedge to be planted to the rear of the visibility splays and along all new boundaries of the site. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

#### Informatives

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

**Signature(s):**

**Date**



**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0273/O	<b>Target Date:</b>
<b>Proposal:</b> Site for dwelling and garage	<b>Location:</b> Land at Tullaghmore Road Roughan Road Cross Roads opposite and 30m south of 57 Tullaghmore Road Dungannon BT71 4EW
<b>Referral Route:</b> Refusal – contrary to CTY 1 and CTY 2a of PPS 21. Objection also received.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Joanne Badger & Jamie Allen 59 Roughan Road Dungannon BT71 4EW	<b>Agent Name and Address:</b>
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice

**Representations:**

Letters of Support	None Received
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

There was one objection received by a local representative on behalf 7 households which are directly attached to Tullaghmore Road. The issues within this objection will be discussed in detail later in this report, however the main concerns raised were:

- Contrary to policies within PPS 21
- Visual Impact
- Lack of natural screening
- Right of Way
- Traffic Issues
- Consent to discharge
- Protection of Wildlife

There was also a supporting statement provided by a planning agent acting on behalf of the applicant and from the applicant themselves to support their case.

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

The application site is located at lands located approx. 30m South of 57 Tullaghmore Road, Dungannon. The site is located at a crossroad which joins Roughan Road and Tullaghmore Road. The site is quite flat throughout and has existing hedging along most of its boundaries at present. There is existing dwellings and their associated outbuildings to the north of the site and to the south of the site is Roughan Lough.

### **Description of Proposal**

Outline planning permission is sought for dwelling and garage.

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

#### Planning History

There is not considered to be any relevant planning history associated with the site.

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

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

The Cookstown Area Plan 2010 identify the site as being outside any defined settlement limits, located South West of Stewartstown Settlement Limits within the green belt. There are no other zonings or designations within the Plan.

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

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.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A

range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, one of these being new dwellings in existing clusters in accordance with CTY 2a.

Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided that a number of criteria are met. The cluster of development lies outside of a farm and consists of four or more buildings to the north. I am content that there is at least three dwellings within this cluster. The cluster is read together and appears as a visual entity in the local landscape. The third criterion of CTY 2a requires the cluster to be associated with a focal point such as a social/community building/facility, or is located at a cross roads. The site is located at a crossroads and therefore it can be concluded that the first 3 criterion within CTY 2a have been met.

It is our view that the proposal fails on the 4<sup>th</sup> and 5<sup>th</sup> criterion and therefore is contrary to CTY 2a. Although the proposal has existing hedging along its boundaries, the issue is that the proposal is not bounded on at least two side with development within the cluster. The existing development is only located to the north of the site. A supporting statement which accompanied the application notes that “the southern boundary is bounded by the established jetty structures and carpark” which they feel represents development in line with Section 23 of The Planning Act. They continue their argument by referring to the historical buildings on the site which can be seen on google maps (2012), shown below in figure 1. However, it is noted that this building has since been removed and that at present there only is a container on the site, shown below on figure 2.



**Figure 1 – Google Maps 2012 (image from agents supporting statement)**



**Figure 2 – Existing container on site (Photo taken 16/04/21)**

It is also our view that the proposed site visually intrude into the open countryside and would also not be able to be absorbed into the existing cluster and would if approval was to be forthcoming. The proposal fails on criterion 5 of CTY 2a. I am satisfied that the proposed site would not have significant adverse impact on neighbouring amenity, this would be further considered at RM stage if approval was to be forthcoming. The sixth criterion of CTY 2a has been met. Policy CTY 2a states that all criteria must be met, therefore the proposal is contrary to the policy and as such refusal is recommended.

It may be worth noting that alternative sites were discussed with the applicant, particularly in relation to the possibility of a dwelling on a farm under CTY 10 as it appears lands to the SW of the site were under their control. The applicant has noted that neither themselves or their family operate a farm business and therefore would not be possible. They note that the farmyard and adjoining land at 59 Roughan Road is owned by a neighbour at the crossroads.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. 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. The proposed site has some degree of enclosure given the existing hedging which surrounds the site and therefore would not be relying solely on new landscaping. A potential dwelling within the red line raises some concern as it would be the first dwelling located along the outer edge of the Lough and thus may have a negative impact on the overall rural character of this area as it would may result in a suburban style build-up of development and therefore is contrary to CTY 14. 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.

**Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 57 Tullaghmore Road. At the time of writing, one representation was received. The objection received was from local representative Linda Dillon on behalf of 7 households which are directly attached to Tullaghmore Road. The issues within this objection include:

- Contrary to policies within PPS 21 – CTY 2a, CTY 13 and CTY 14
- Visual Impact
- Lack of natural screening
- Right of Way
- Traffic Issues
- Consent to discharge
- Protection of Wildlife

The assessment of the site against the policies within PPS 21 has already been discussed within the report. We would agree that the proposal fails to meet the criteria required within PPS 21. The objection refers specifically to the criterion held within CTY 2a and reinforces our view that the proposal would visually intrude into the open countryside. There are concerns from the objector that if allowed, this application would open a floodgate for future applications surrounding Roughan Lough however our view would be that each application would be assessed on its own merits.

Concerns surrounding the right of way from the public to Roughan Lough is mentioned several times within the objection. This is not considered a material planning consideration as any potential forthcoming approval would not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands. The applicant has noted on the P1 form that the lands are all within the ownership of their parents. In terms of traffic issues, DfI Roads are the competent authority in dealing with the concerns relating to access to and from the proposed site. They have raised no concerns in relation to the proposal, subject to condition. The consent to discharge would be granted by NIEA.

<b>Neighbour Notification Checked</b>	Yes
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**Summary of Recommendation:**

Refusal is recommended.

**Conditions/Reasons for Refusal:**

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of

enclosure and the dwelling would if permitted significantly alter the existing character of the cluster and would visually intrude into the open countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries/is unable to provide a suitable degree of enclosure for the building to integrate into the landscape and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	25th February 2021
<b>Date First Advertised</b>	9th March 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 57 Tullaghmore Road, Dungannon, BT71 4EW Linda Dillon Email	
<b>Date of Last Neighbour Notification</b>	20th July 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<p>Ref ID: LA09/2021/0273/O            Proposal: Site for dwelling and garage            Address: Land at Tullaghmore Road, Roughan Road Cross Roads, opposite and 30m south of 57 Tullaghmore Road, Dungannon, BT71 4EW,            Decision:            Decision Date:</p>	
<p>Ref ID: LA09/2015/0389/F            Proposal: Extension to existing bed and breakfast run from dwelling, to form new self contained holiday unit            Address: 59 Roughan Road, Newmills, Dungannon,            Decision: PG            Decision Date: 20.10.2015</p>	
<p>Ref ID: I/1993/0344            Proposal: Proposed Ski Club Rooms and Demolition of existing unapproved structure            Address: ROUGHAN ROAD NEWMILLS DUNGANNON            Decision:            Decision Date:</p>	
<p>Ref ID: I/1992/0147</p>	

Proposal: Temporary changing rooms  
Address: APPROX. 120M NORTH EAST OF 59 ROUGHAN ROAD NEWMILLS  
DUNGANNON  
Decision:  
Decision Date:

Ref ID: I/1981/0169  
Proposal: SITE FOR DWELLING  
Address: TULLAGHMORE, NEWMILLS, DUNGANNON  
Decision:  
Decision Date:

**Summary of Consultee Responses**

DfI Roads – content.

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0352/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed stable and store.	<b>Location:</b> Lands approx. 55m West of 303 Battleford Road Dungannon Co Tyrone BT71 7NP.
<b>Applicant Name and Address:</b> Mr Patrick McKenna 79a Drumflugh Road Benburb Dungannon BT71 7QF	<b>Agent name and Address:</b> CD Consulting 75 Creagh Road Tempo Enniskillen BT94 3FZ
<b>Summary of Issues:</b>  The proposed development would lead to a tendency for ribbon development.	
<b>Summary of Consultee Responses:</b>  DFI Roads – recommend approval with conditions to ensure access is acceptable	
<b>Characteristics of the Site and Area:</b>  The site is located to the West of number 303 Battleford road, which is situated within the open countryside a short distance to the South of the settlement limits of Eglisish and outside all other areas of constraint as depicted in the DSTAP. The red line of the site includes a small square field 55 metres west of number 303 Battleford road. The field lies slightly below road level and is surrounded on 3 sides, the east, west and south by mature hedging including a scattering of trees and along the north by a timber D Rail fence, which runs parallel to the existing concrete driveway.	

There are two existing dwellings located along this private lane to the rear of the site and a dwelling and a number of farm buildings across the Battleford road to the west of the site. The applicant also owns a small square field to the East of the bounding dwelling.

### **Description of Proposal**

The proposal seeks full planning permission for a stable and store.

### **Deferred Consideration:**

This application was before the Planning Committee in October 2021 with a recommendation to refuse and it was deferred for a meeting with the Planning Manager. A virtual meeting took place on 14 October 2021, at the meeting an alternative siting was explored and unfortunately due to technical difficulties the agent left the meeting early. The agent was contacted and has had the opportunity to provide additional information for consideration in respect of the policy context for this type of development in the countryside.

In support of the application, the applicant has relied on Policy OS3 in Planning Policy Statement 8 – Open Space, Sport and Outdoor Recreation and has provided a number of Planning Appeal Decisions and planning decisions from other Planning Authorities on the matter.

- 2010/E055 & 2010/A0099  
Mr Raymond Hamilton - Appeals against Enforcement Notices, UA erection of building and retention of building for use as stables, Tamlaghtmore Road, Cookstown. Commissioner accepted OS3 is the relevant policy for equestrian use in the countryside.
- 2012/A0057  
Mrs Jennifer Douglas – Appeal against decision to refuse planning permission for new stable with hardstanding and paddock area. Commissioner relied on Policy OS3 not CTY12.
- 2015/A0054  
Mr D & Mrs C Henry – Appeal against decision to refuse planning permission for Agricultural shed and small stable block. In this appeal the relevant policy was CTY12 and in this consideration the Commissioner took account of the impacts on the neighbouring properties due to odours from a stable block, likelihood of vermin due to feedstuff being stored with the proposal and additional traffic and noise due to visiting the stables more. There is some comparison here with that appeal and the applicants are saying they need to keep the stables away from the existing neighbouring dwelling. As discussed there is an alternative that could meet these objectives but the applicant has not chosen to pursue the alternative.
- 2017/E0047 & 2017/E0048  
Mr C Coyle – Appeals against Enforcement Notices relating to change of use from agricultural land to stables: and erection of buildings, pool, hardstanding and access road. Bigwood Road, Ardmore, Londonderry. Commissioner accepted Policy OS3 I applicable for outdoor recreational use for stables.

- LA01/2017/0686/F  
Desie and Carol Henry – Planning Application for New stables comprising stable block, tack and feed block, lunge pen, midden and associated access works and landscaping. Relates to new buildings up an existing laneway , no other development close by. This was granted under Policy OS3.
  
- LA01/2017/0492/O  
Michael O'Kane - Erection of horse stables under Planning Policy Statement 8 (PPS8 ), open space, sport and outdoor recreation. Relates to new building up laneway with a dwelling not associated with the proposal on the opposite side of the lane. This was granted under Policy OS3.
  
- LA01/2018/0926/F  
John O'Kane - Retrospective Erection of Equestrian building to include tack room and stables for two horses and horsebox storage under Planning Policy Statement PPS 8 Open Space, Sport and Outdoor Recreation. Policy OS3 Outdoor Recreation in the Countryside, Paragraph 5.33 Equestrian Uses. Relates to the retention of a building at the end of a private lane well away from any views. This was granted under Policy OS3.

From the above decisions it is apparent that CTY1 permits development for outdoor sport and recreational uses in accordance with the policies contained in PPS8. In taking decisions on applications for equestrian uses in the countryside, where this relates to keeping or riding horses, this is acceptable in principle in accordance with Policy OS3 of PPS8 and provided the scale of ancillary buildings is appropriate to its location and can be integrated into their landscape surroundings.

OS3 sets out 8 criteria that should be considered:

(i) there is no adverse impact on features of importance to nature conservation, archaeology or built heritage;

This proposal is approx. 240 metres from Battleford Bridge (a Listed Building) and the route of the Ulster Canal. Due to this distance and the small scale nature of the building, the proposal is unlikely to adversely affect these.

(ii) there is no permanent loss of the best and most versatile agricultural land and no unacceptable impact on nearby agricultural activities;

The field is poor grazing land with an abundance of rushes in it. I do not consider it is best, most versatile agric. Lands. The surrounding fields are used for grazing of livestock which this proposed development is, in my opinion, compatible with

(iii) there is no adverse impact on visual amenity or the character of the local landscape and the development can be readily absorbed into the landscape by taking advantage of existing vegetation and/or topography;

The proposed development will result in a tendency to ribbon development, it will be seen on approach from the west, with the existing dwelling and garage to the west along the private lane. The proposal will leave a gap in the field, but will be clearly seen with the existing 2 buildings to the east (dwelling and gable fronted garage) which are in the view line of traffic travelling towards Armagh as it rounds this corner. Any development as proposed in the east side of the field will be clearly seen with the existing development

and this will result in a tendency to ribboning, where the development, while not immediately adjacent to the existing development to create or extend a ribbon of development, it does tend to give the appearance of ribbon development.



Fig 1 – Proposed building in yellow, existing dwelling and garage in blue and suggested alternative site in red

(iv) there is no unacceptable impact on the amenities of people living nearby;  
The applicant has advised they have located to proposed development 50 metres from the neighbouring property to the east, as they had consulted with them prior to submitting the proposal and had given them assurances about this distance. The proposal is approx. 30m metres from a dwelling on the opposite side of the Battleford Road, which is a busy road. Given these separation distances, the orientation of the opening facing towards the east and the scale of the proposed development, that it would give rise to any significant impacts on the amenity of the neighbouring properties.

(v) public safety is not prejudiced and the development is compatible with other countryside uses in terms of the nature, scale, extent and frequency or timing of the recreational activities proposed;  
This proposal for a small domestic stable for keeping horses and feedstuff is unlikely to prejudice road safety given the access is off an existing lane which has good sight lines to the road which DFI Roads have raised no concerns over.

(vi) any ancillary buildings or structures are designed to a high standard, are of a scale appropriate to the local area and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;  
The building proposed is 10.0m x 5.0m and approx. 4.7m in height with smooth render walls and corrugated iron roof, there are 2 openings on one elevation, for a single stable door and double doors. This is a modest sized building which is not out of character for this area. The location of the building beside the existing buildings here causes some concerns in relation to creating a tendency to ribbon development along this laneway.

(vii) the proposed facility takes into account the needs of people with disabilities and is, as far as possible, accessible by means of transport other than the private car; and  
This is for private domestic use in the countryside, it is a level site and there is a parking and turning area proposed. Given the location in the countryside away from the applicants dwelling, it is likely this will be accessed by private transport means, however there is also the potential for the development to be accessed by walking and cycling along the rural roads. I do not consider there is a conflict with this criteria.

(viii) the road network can safely handle the extra vehicular traffic the proposal will generate and satisfactory arrangements are provided for access, parking, drainage and waste disposal.

This private stable is accessed off an existing lane off the Battleford Road, which is a well trafficked road connecting towards Armagh City.

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

1. The proposal is contrary to Policy OS3 of Planning Policy Statement 8 – Open Space, Sport and Outdoor recreation in that the proposal would, if permitted, result in a tendency to ribboning of development along this private lane, off the Battleford Road, and would, if permitted, adversely impact on the visual amenity of the area.

**Signature(s):**

**Date**

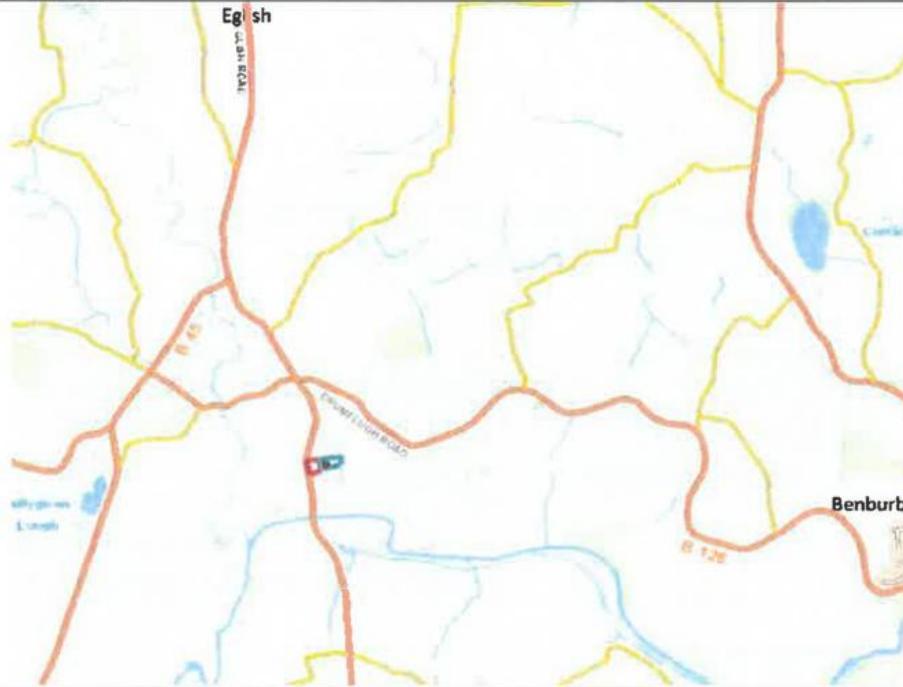


## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0352/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed stable and store.	<b>Location:</b> Lands approx. 55m West of 303 Battleford Road Dungannon Co Tyrone BT71 7NP.
<b>Referral Route: Contrary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Patrick McKenna 79a Drumflugh Road Benburb Dungannon BT71 7QF	<b>Agent Name and Address:</b> CD Consulting 75 Creagh Road Tempo Enniskillen BT94 3FZ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

### Representations:

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

### Summary of Issues

No objections were received.

### Characteristics of the Site and Area

The site is located to the West of number 303 Battleford road, which is situated within the open countryside a short distance to the South of the settlement limits of Eglis and outside all other areas of constraint as depicted in the DSTAP.

The red line of the site includes a small square field 55 metres west of number 303 Battleford road. The field lies slightly below road level and is surrounded on 3 sides, the east, west and south by mature hedging including a scattering of trees and along the north by a timber D Rail fence, which runs parallel to the existing concrete driveway.



There are two existing dwellings located along this private lane to the rear of the site and a dwelling and a number of farm buildings across the Battleford road to the west of the site. The applicant also owns a small square field to the East of the bounding dwelling.



**Description of Proposal**

The proposal seeks full planning permission for a stable and store.



### Planning Assessment of Policy and Other Material Considerations

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

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

#### Representations

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

#### Planning History

There is no relevant planning history on this site.

#### Mid Ulster Development Plan 2030 - Draft Plan Strategy

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

#### Dungannon and South Tyrone Area Plan 2010

The proposal is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is not within any other designations in the Plan.

As the site is located away from the applicants existing home it is not assessed under the Addendum to PPS7 Residential Extensions and Alterations. The application is seeking planning consent for the erection of a standalone stable and store and I do not consider there are any

specific policy provisions for this type of development, as such the proposal must be assessed in accordance with the SPPS, PPS 21 - CTY 1 and PPS 3.

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

The SPPS 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 retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered

PPS21- sustainable development in the countryside

The overarching policy for development in the countryside is PPS21. There are certain instances where development is considered acceptable in the countryside subject to certain criteria.

These are listed in CTY1 Development in the Countryside.

In this case the applicant is seeking planning permission for a small stable and store to house his own private horses in the winter months, no farming case or Equestrian use has been submitted.

Policy CTY 1 of PPS21 states that there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Other types of development will only be permitted where there are overriding reasons why that development is essential and could not be located in a settlement, or it is otherwise allocated for development in a development plan. All proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety. Access arrangements must be in accordance with the Departments published guidance.

There is no provisions within PPS 21 CTY 1 for the erection of a stable or store at a standalone site in the countryside. The applicant has suggested that they need the stable to house the horses in the winter months, however, this site in total is less than 1 acre and it would be unreasonable to suggest that a store is required. The applicant lives a few miles away at 79a Drumflugh Road, at a site with existing housing facilities for horses as well as a sand arena, see below, and has provided no relevant case as to why there is a need for a stables at this particular location.

Therefore the proposal is contrary to PPS 21 CTY 1.



PPS21 Policy CTY 8 - Ribbon Development is also applicable in this case.

This policy starts off by stating that “planning permission will be refused for a building which creates or adds to a ribbon of development.” Members will be aware that the policy is applicable to footpaths and private lanes.

In this instance it is my opinion that a stable at this particular site will add to a ribbon of development along this lane and as such be detrimental to the character, appearance and amenity of this area. In my opinion the proposed stable and associated new access would add to a built up appearance of this area when viewed from the Battleford Road, on approach from the west as it would be seen with the existing two dwellings and garage.

Therefore, I consider the proposal is contrary to PPS 21 CTY 8.

The applicant also makes reference to PPS 8 - Open space and outdoor recreation in his supporting statement, suggesting that this stable is an outdoor recreational use and as such should be permitted under the provisions of PPS21. The submission indicates that PPS8 allows for a non-residential use for outdoor recreational use so long as it has no adverse effect on the impact of importance to nature conservation, archaeology or built heritage, no permanent loss to agricultural ground, no impact on the character of the area, no impact on public safety or no impact on nearby residential amenity.

It is my opinion that this stables does not represent an outdoor recreational use on its own, the applicant has not suggest this is for a riding school, or equestrian centre etc and therefore I do not consider this policy is not applicable.

Recommendation Refusal

CTY 1 & CTY8

**Neighbour Notification Checked**                      **Yes**

**Refusal Reasons**

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.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, add to ribbon development along this private lane, off the Battleford.Road, and would, if permitted, adversely impact on the amenities of neighbouring residents.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th March 2021
<b>Date First Advertised</b>	16th March 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 303 Battleford Road Dungannon Tyrone The Owner/Occupier, 305 Battleford Road, Benburb, Dungannon, Tyrone, BT71 7NP The Owner/Occupier, 308 Battleford Road Benburb Tyrone	
<b>Date of Last Neighbour Notification</b>	23rd March 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<p>Ref ID: LA09/2021/0352/F            Proposal: Proposed stable and store.            Address: Lands approx. 55m West of 303 Battleford Road, Dungannon, Co Tyrone BT71 7NP.,            Decision Date:</p> <p>Ref ID: M/2002/1059/O            Proposal: Proposed dwelling and garage            Address: Opposite 308 Battleford Road, Dungannon, Co. Tyrone            Decision Date: 15.11.2002</p> <p>Ref ID: M/2003/0248/RM            Proposal: Proposed dwelling and garage            Address: Opposite 305 Battleford Road, Dungannon            Decision Date: 15.04.2003</p> <p>Ref ID: M/2006/0565/F            Proposal: Dwelling house            Address: 100m East of 308 Battleford Road, Dungannon            Decision Date: 30.08.2007</p> <p>Ref ID: M/2005/0053/O            Proposal: Bungalow and Garage            Address: 100m East of 308 Battleford Road, Carrowbeg, Eglis</p>	

Decision Date: 19.04.2005

Ref ID: M/2004/1105/O

Proposal: Dwelling House

Address: 100m East of 308 Battleford Road, Dungannon - amended plans

Decision Date: 26.10.2004

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0739/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling & Garage/Store.	<b>Location:</b> 150m NE of 230 Coalisland Road Gortin Dungannon BT71 6EP
<b>Applicant Name and Address:</b> Mr Cathal Keogh 232 Coalisland Road Dungannon BT71 6EP	<b>Agent name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b> The proposed development sits outside the settlement limits for Edendork and outline planning permission was granted as an exception with a siting restriction to ensure the development was considered as rounding off. This proposed development sits outside the area that was identified and does not result in rounding off.	
<b>Summary of Consultee Responses:</b>  No new consultees were carried out under this application as were consultations were carried out under the previous application and this proposal does not alter those responses.	
<b>Characteristics of the Site and Area:</b>  The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.  The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an	

existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

**Description of Proposal**

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

**Deferred Consideration:**

This application was before the Committee In September 2021 with a recommendation to refuse, it was deferred for a meeting with the Planning Manger, which took place virtually on 18 September 2021. At the meeting it was explained outline planning permission was granted as an exception to planning policy and this was due to a specific set of with any new development located tight to the existing development as rounding off.

Since the meeting, amended plans have been submitted, these were in response to objections and show the levels of the proposed development as well as the proposed garage being reduced in scale and size to something that appears to be domestic in scale and appearance, not the large industrial type shed that was previously submitted. The revised plans do not result in the development being located within the area that was identified at the outline planning permission stage. The agent has indicated there are overhead power lines that will prevent the applicant from developing in the area that was considered acceptable and also indicates the proposed dwelling will not be visible from any area of public view.

Members are reminded that outline planning permission was granted on 10 July 2020 under reference LA09/2019/0767/O given the existing development in Edendork and the approved and commenced development for Gradeall International (M/2003/1631/F), off the Farlough Road. This resulted in the south part of the site being contained on 3 sides by development and was assessed as rounding off.

The proposed development will extend the proposed development further into the existing field and does not have the containment on 3 sides that allowed the previous application to be granted. This is not a visual assessment of the site from the surrounding areas, it relates to the definition of boundary of the sentient limits, which is usually carried out through the development plan process and asses what are appropriate features to define the limits. The applicant has identified the existing overhead power lines as being an impediment to the development of the site, however these can be moved to accommodate development and as such should not be relied on as immovable features that constrain the development of the site. There has been no further persuasive arguments put forward to set out how the proposed development meets any of the planning polices or why it should be considered as an exception to any planning policy.



Fig 1 – area coloured orange identified as acceptable in LA09/20219/0767/O

Objections were received to the proposed development, these had raised issues with the previous approval on the site and the scale and size of the proposed garage at the rear of their properties as well as noise and nuisance as they have a particular sensitivity to noise. The previous approval was granted with a site specific condition as previously assessed and accepted on the rounding off basis. The proposed garage was initially 8.5m x 13.0m with a 6m ridge height, finished with brown cladding to the roof and upper walls, smooth render blockwork walls and a 4.0m roller door in one gable. This did have the appearance of an industrial type development. It is now proposed as 10.8m x 6.8m with a 5.5m ridge height and has the appearance of a double garage with walls and roof to match the proposed dwelling. While it has been noted the objectors have concerns about the use of the garage, this is proposed as a domestic garage and that is what must be assessed. Any noise or nuisances associated with anything that is not domestic in scale will be subject to investigations by the Councils Enforcement Team and Environmental Health Officers.

In light of the above, the previous report from September 2021 and the planning history of the site, I do not consider the applicant has demonstrated that this development meets with any of the planning policies for development in the countryside and if approved would result in unacceptable urban sprawl. It is my recommendation this proposal is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of PPS21 in that it has not been demonstrate this development meets with any of the polices for a house in the countryside or there are any overriding reasons why it is essential in the countryside or could not be located within a settlement.
2. The proposal is contrary to Policy CTY15 of PPS21 as the development would not constitute rounding off of the settlement limits and would mar the distinction between the settlement of Edendork and the surrounding countryside.

**Signature(s):**

**Date**



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 07/09/2021	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0739/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling & Garage/Store	<b>Location:</b> 150m NE of 230 Coalisland Road Gortin Dungannon BT71 6EP
<b>Referral Route:</b>  1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.  2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Cathal Keogh 232 Coalisland Road Dungannon BT71 6EP	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b> The application site is in the countryside and on the boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. Condition 4 of planning approval LA09/2019/0767/O is a siting condition where the curtilage of the site should be within a hatched area nearest the existing dwellings within the settlement. This siting condition was to prevent urban sprawl and round off the existing development. In this application the applicant has shown the curtilage outside the hatched area and further north within the red line. It is stated this is because there are overhead electricity power lines	

passing over the hatched area but I do not consider this is a reason to move the curtilage outside the hatched area.

**Signature(s):**

**Case Officer Report**

**Site Location Plan**



**Consultations:** None Required

Consultation Type	Consultee	Response
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**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

**Characteristics of the Site and Area**

The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.

The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the listed building at No.230. There are established trees along all boundaries of the site.

### **Description of Proposal**

This is a full application for a proposed dwelling & Garage/Store at 150m NE of 230 Coalisland Road, Gortin, Dungannon.

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

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

### **Representations**

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

### **Planning History**

LA09/2019/0767/O - Proposed dwelling and garage (Amended Access Position) - Approx 150m NE of 230 Coalisland Road, Gortin, Dungannon – Permission Granted 10<sup>th</sup> July 2020

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

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

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010 and is not within any other designations or zonings in the Plan.

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will

only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement.

LA09/2019/0767/O granted outline approval at the application site on 10<sup>th</sup> July 2020. As this is a full application and has been submitted within 5 years from the date of the outline I am content there is a live approval at the site.

**Policy CTY 2a – New Dwellings in Existing Clusters**

As stated in the Preamble in PPS 21 the countryside is defined as land lying outside of settlements as defined in development plans. The application site is located on the northern boundary of the settlement limit of Edendork and as such, any development to the south of the site inside Edendork cannot be considered in the assessment of CTY 2a.

**Policy CTY 15 – Setting of Settlements**

The application site is abutting the northern boundary of the settlement limit of Edendork. There is a housing development of 6 houses and several detached dwellings immediately south of the site within the settlement limit. The site is an agricultural field and fields about all other boundaries of the site.

LA09/2019/0767/O granted approval at the application site under the principle that the development would round off existing development to the south. Condition 4 of planning approval LA09/2019/0767/O stated the dwelling and its curtilage should be sited within the blue hatched area as shown in figure 1 below. In the drawings submitted with this application the applicant has sited the dwelling and garage further north towards the red line and outside the hatched area. The application site is on the boundary of the settlement limit and the hatched area was conditioned as it was felt that this area would round off the existing dwellings. I consider the siting on the drawings submitted is unacceptable as it is outside the conditioned hatched area. The proposed siting further north within the red line will not round off the existing development within the Edendork settlement limit and lead to further development on the settlement boundary. Therefore I would recommend refusal of this proposal as it would add to urban sprawl.

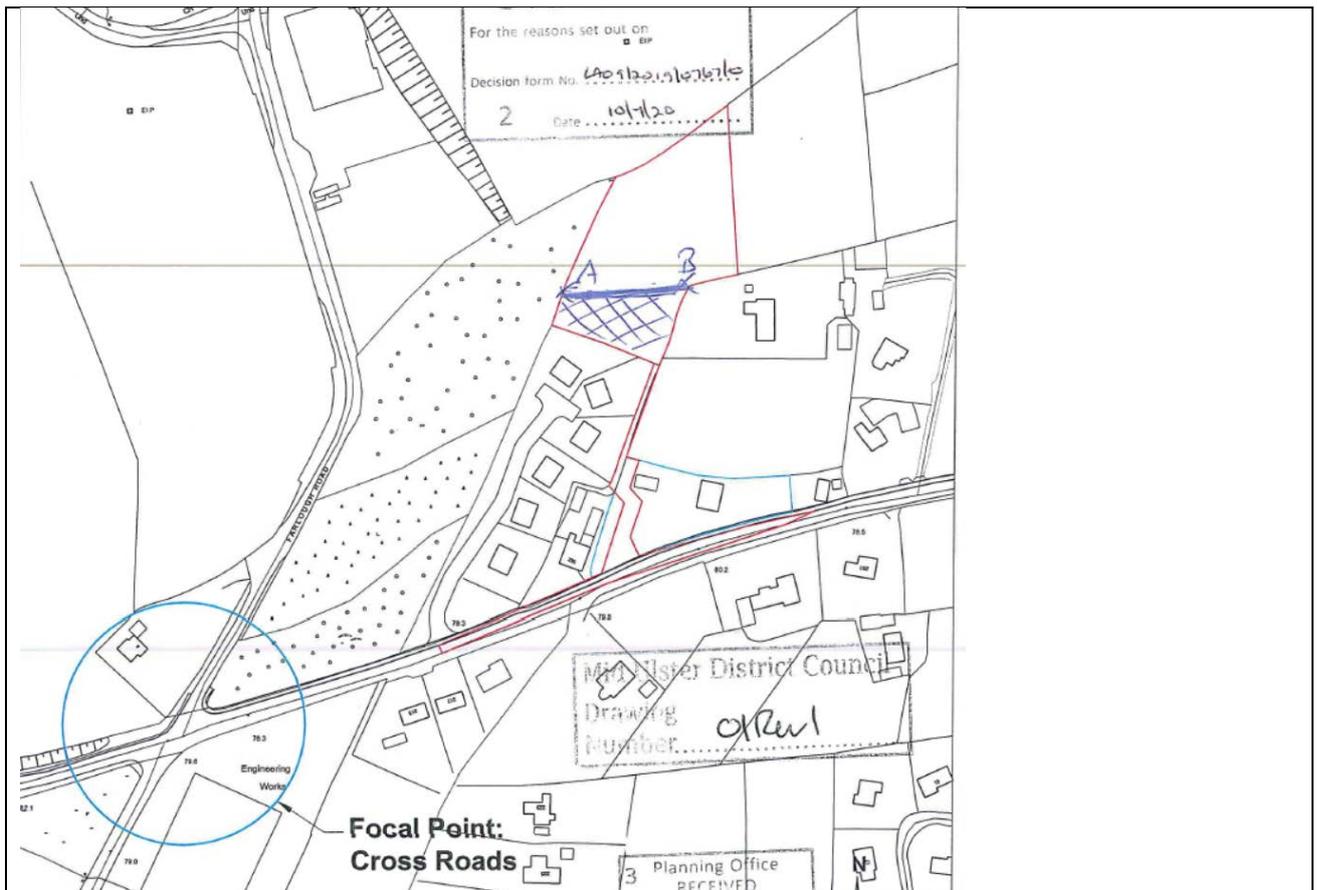


Figure 1 – Screenshot of the stamped approved site location plan from LA09/2019/0767/O

### CTY 13 – Integration and Design of Buildings

I am content the dwelling will not be a prominent feature in the landscape. The site is set back from the public road by approximately 100m and is accessed via an existing laneway. There are no critical views in either direction from the public road due to established trees and hedgerow along the roadside frontage.

There are established trees and hedgerow along all boundaries of the site so I am content the proposal will integrate into the landscape. I am content new planting will not be primarily relied on for the purposes of integration.

The proposed dwelling is 6.8m to finished floor level and one and half storey. The dwelling has a long rectangular form and built in dormers on the front elevation. The windows have a vertical emphasis and the chimneys project from the ridge line of the dwelling. There is a small porch on the front elevation of the dwelling. I am content the scale and massing of the dwelling is acceptable and the design is in keeping with a rural dwelling.



Figure 2 – Screenshot of the proposed dwelling

The proposed garage is sited in the northern corner of the application site and as stated earlier in the assessment this is outside the conditioned hatched area in the outline planning approval. The garage has a rectangular form and a ridge height of 6m to finished floor level. The garage has external finishes of dark brown roof panels, grey blockwork walls and dark brown roller shutter doors. The garage has the appearance of an agricultural building but as the proposal is outside the settlement limit I have no concerns and the building is set back from the main road.

As shown on the block plan the applicant has proposed new landscaping and the retention of existing trees, therefore I have no concerns and I consider there is a suitable degree of enclosure to integrate into the landscape.

The proposal will use an existing laneway and the new access will extend along the east boundary. As the access will run for a short distance I am content the access will not have an unacceptable impact on the character of the site.

I am content the design of the proposed garage and dwelling is acceptable.

**CTY 14 – Rural Character**

I am content the proposal will not be unduly prominent in the landscape. I am of the opinion the revised siting further north will not round off the existing development and exacerbate urban sprawl. Therefore the proposal will be detrimental to the rural character of the surrounding area.

**Neighbour Notification Checked**      Yes

**Summary of Recommendation:**

The proposal is recommended for refusal as it will create urban sprawl.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY 15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of Edendork and the surrounding countryside.

2. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would add to urban sprawl.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/0767/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and garage (Amended Access Position)	<b>Location:</b> Approx 150m NE of 230 Coalisland Road Gortin Dungannon Tyrone BT71 6EP
<b>Applicant Name and Address:</b> Cathal Keogh 232 Coalisland Road Dungannon BT71 6EP	<b>Agent Name and Address:</b> CMI Planners 38 Airfiled Road Toomebridge Antrim BT41 3SG
<b>Summary of Issues:</b> This application is for a dwelling in the countryside just outside the settlement limits of Edendork. The proposal does not meet with any of the policies for a dwelling in the countryside. The site is bounded by existing and approved development which would justify a dwelling here as rounding off the existing development.	
<b>Summary of Consultee Responses:</b> Historic Environment Division (HED) were consulted with a revised plan showing ghe access moved, They are content with the proposal.  NI Water were consulted and have no objections.  DFI Roads were consulted with a revised access position and have no objections subject to a 1:500 scale plan submitted at Reserved Matters stage in accordance with the RS1.  Geological Survey of Northern Ireland (GSNI) were consulted and stated the proposed site is not in the vicinity of any know abandoned mine workings	

**Characteristics of the Site and Area:**

The site abuts the northern boundary of the settlement limit of Edendork as defined in the Dungannon and South Tyrone Area Plan 2010. To the north west of the site is a factory and large yard area, while to the northeast are sprawling agricultural fields and single detached dwellings. Adjoining the remaining boundaries of the site is predominantly residential with single detached dwellings and there is a new housing development to the southwest with six dwellings. To the south and abutting the access lane is a Listed Building at 230 Coalisland Road.

The application site is a rectangular shaped plot with a topography that rises slightly from south to north. The site is set back from the public road by approximately 92m and is accessed via an existing lane that runs alongside the rear of the new houses and through the garden of no232 and beside the existing laneway that runs adjacent to Rosedale, the listed building at No.230. There are established trees along all boundaries of the site

**Description of Proposal**

This is an outline application for a proposed dwelling and garage. The proposal has been amended to locate the access off the Coalisland Road further to the east, away from the existing Listed Building and in the garden of the detached dwelling at No 232 Coalisland Road.

**Deferred Consideration:**

This application was before the Planning Committee in October 2019 and following a request to defer it was agreed to defer to allow a meeting with the Planning Manager. A meeting took place on 10 October 2019. At the meeting the agent presented information indicating there was an extant planning permission for an industrial development outside the settlement limits and accessed off Farlough Road, to the north west of the site. The agent indicated a dwelling located in the southern part of the proposed site would not have any impacts on the setting of Edendork. This was accepted in the consideration of application LA09/2015/1275/O, Mayogall Road, Guladuff. In relation to the proposed access the agent advised they would look at this and an amended scheme was submitted which proposed the access in the garden of No 230 Edendork Road, this moved the access away from Rosedale, a listed building and allows additional sight lines to be provided. This amended scheme was subject to additional neighbour notification, advertisement in the local press and consultation with Historic Environment Division and DFI Roads. 3 additional letters of objection were received and these raised the following issues:

- contrary to Dungannon and South Tyrone Area Plan, outside the defined settlement limits, ample space within the limits for development
- no justification for a dwelling in the countryside, contrary to PPS21 policies CTY1, CTY8, CTY14
- contrary to CTY15, on the edge of the settlement limit
- loss of amenity due to loss of privacy, noise and disturbance during construction and following occupation
- bats fly around the site, bats and roosts protected by law, full environmental impact assessment needed
- the proposal will result in urban sprawl

Members will be aware Mid Ulster Development Plan 2030 Draft Plan Strategy is scheduled to go through a further consultation period which commenced on 25th March

2020. Due to the COVID19 Pandemic there is currently no end date or timetable for public events in relation to this re-consultation. During the initial consultation period a number of objections to Policies contained in the Plan were received. In light of this the Draft Plan cannot be given any determining weight at this time.

The objections that have been raised are very valid points and the members could refuse this application on the basis that it is in the rural area outside of the settlement limits for Edendork and it does not meet CTY1 of PPS21. However members will be aware planning policy is one of the material considerations that must be taken into account when assessing an application. Other material facts that must be weighed into an decision include the harm to the setting of the settlement, the planning history of the area and the planning concept of rounding off.

Planning permission M/2003/1631/F (Appendix 1 ) for proposed redevelopment of existing factory to include for new factory/office block and plant room and associated works was granted to Gradeall International to the north east of the site (Appendix 1 - Map 1) on 8<sup>th</sup> November 2005. This permission allowed new buildings to be erected and also the site to be expanded. Aerial photography dated 31 August 2010 (Appendix 1 - Photo 3) shows foundations in place, in the general location of the approved development. I consider these foundations are development in the course of the erection of the approved building and it is clear they have been put in place within the 5 year time commencement period specified on the planning permission. In light of this I am content that development has commenced on that site and can be carried out in accordance with the approved plans. The application site is bounded by existing development within the defined settlement limits of Edendork to the south and east and by the approved development and yard to the west. There are no public views of the proposed site as it is screened from areas of public vantage by existing trees to the west and houses to the south. There are views of the site from the private gardens of 2 properties in the new housing development to the south and no 250A Coalisand Road, to the east. I do not consider, given there are limited public vantage points, that a dwelling in this location would result in undesirable urban sprawl or adversely impact the setting of Edendork. I consider a dwelling set in the south part of the site would still be within the urban footprint of Edendork and would result in rounding off at that location.

The objectors have raised issue with impact on their amenity if a dwelling were to be located here. They have objected that a dwelling here would result in loss of privacy, cause disruption due to noise during construction and from any occupants and adversely affect view. Members are aware there is no right to a private view and as such this is not a significant factor in the determination of this application. The application site sits slightly below the level of the house at 250A Coalisland Road and the houses in Farlough Manor. There is a high thick hedge between the application site and the grounds of 250A Colaisland Road and a thick laurel hedge behind the properties at Farlough Manor.

Hedge to 250A Coalisland Road Boundary (Photo 1)



Hedge to Farlough Manor Boundary (Photo 2)



These hedges can be subject to a condition that requires they are retained to protect the amenity of the adjacent dwellings. 250A sits on a fairly large plot and is approx. 30 metres from the boundary with the application site. The houses in Farlough Manor are approx. 13m from the boundary with the application site. The exact position of a dwelling on this site and its orientation has not been submitted for consideration. Creating Places provides guidance on the separation distances between dwellings to amenity is protected. I am content that a siting condition that restricts the curtilage of the proposed property to 50m west-east and 40m north-south a dwelling would allow a dwelling to be sited in the south part of this application site that would be adequately separated from the adjacent properties and ensure the amenity of the adjacent properties is protected. If permission is granted here in principle, the siting, design and levels are Matters that can be Reserved for further consideration.

An objection states a property was purchased at 6 Farlough Manor (a new development to the south of the application site) and a dwelling was built at 250A Coalisland Road (to the east of the application site) as they felt no further development would be allowed behind the house as the land is outside the settlement limits. Information on the Councils website had given an indication that no further land is needed for housing in Edendork. It is stated that to allow this development would be a significant departure from the development plan. I do not consider one dwelling added to the settlement of Edendork would represent a significant departure to the plan, indeed the Department allowed similar small scale expansions to the settlement limit on the south side of the settlement under application

M/2006/0374/F and along Killymeal Road under application M/2014/0308/F. Members are aware the Area Plan for the Mid Ulster Council Area is currently under review, there is a lot of information that has been published which will be taken into account in the review. That said under the review there is always the potential for settlement limits to be extended out or pulled back in and as such there is no guarantee that lands will not be acceptable for development in the future. Members are also aware that planning policies exist which allow development in the rural area, therefore no one should make assumptions about where development should and should not be located and these are decisions that may be taken through consideration of planning applications.

The objector states the field as nature conservation interests and states the area has bats, red kite, buzzards and red squirrel. The objector further states they are sure there are many other species of wildlife. I do not dispute that there is such biodiversity in the area, however the application site and particularly the area to the south, is currently used for grazing horses and is an agricultural field. Conditions requiring the retention of hedges will ensure the retention of features that bats tend to use when foraging and a condition relating to low level lighting will ensure that any development will be bat friendly. The approval of a dwelling in this location, on an agricultural field immediately adjacent to an existing housing development and is unlikely, in my opinion, to have any significant impact on the existing biodiversity. I consider an appropriate landscaping scheme with native species hedges along the site boundary could enhance biodiversity in the area.

The objector quotes Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention, which provides a right to respect for private and family life are engaged by this breach of planning. However, these are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The approval of a dwelling in this location, taking into account design guidance which protects from overlooking and overshadowing should therefore ensure the enjoyment of the property is not impacted to a significant degree. I therefore do not see this is a justified reason to refuse development on this site.

The application has been amended to provide a new access to Coalisland Road, by relocating it to the east, instead of using the existing lane beside Rosedale. This places the access through the garden of the property at 232 Coalisland Road. The relocation of the access will ensure a safe access can be provided in accordance with DFI Roads standards of 2.4m x 90.0m without having an adverse impact on the setting of the Listed Building, as confirmed by HED response received 30 January 2020 and Roads response dated 13 February 2020. The proposed access will require the removal of some trees at the roadside, these trees are not protected by any designations or tree preservation orders and as such they do not have any statutory protection. Some of the trees are mature beech and scots pines and it is desirable to retain these in the interests of visual amenity. I consider it is appropriate to attach a condition requiring the retention of the trees, except where it is necessary for the access.

Taking account of all of the above, I consider a dwelling with a curtilage restricted to the south part of the site, bounded by new native species landscaping and retaining the existing vegetation would not unduly impact on the public interests and may be approved.

Conditions:

1. Approval of the details of the siting, design and external appearance of the buildings, site levels, 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.

2. 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.

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

Reason: To ensure resident's privacy is not adversely affected.

4. The proposed dwelling shall be sited in and its curtilage, except for the access, shall not extend outside the area shaded hatched blue on drawing No 01 Rev1 bearing the stamp dated 26 NOV 2019. The remainder of the field identified within the red line shall be retained for agricultural purposes.

Reason: To prevent urban sprawl.

5. Prior to the commencement of any development hereby approved the vehicular access, including visibility splays of 2.4m x 90.0m and forward sight distance of 90.0m as indicated on the attached RS1 form shall be provided in accordance with details to be submitted and approved at Reserved Matters stage. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

6. The existing natural screenings of the area indicated with the blue hatching on drawing No 01Rev1 bearing the stamp dated 26 NOV 2019 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of biodiversity.

7. All hard and soft landscape works shall be carried out in accordance with the plans as may be approved at Reserved Matters stage and the appropriate British Standard or other recognised Codes of Practise. The works shall include

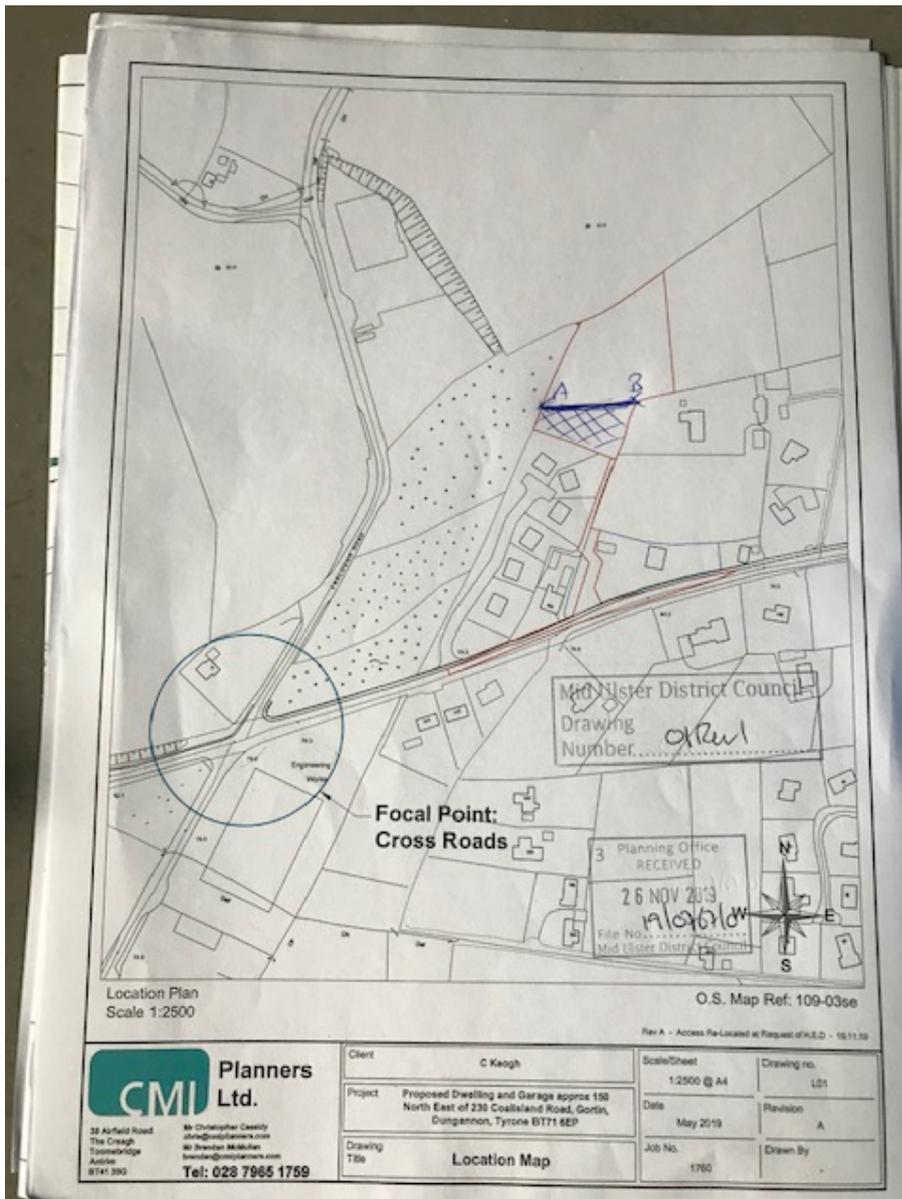
- a native species hedge to be planted between points A and B as annotated and
  - along both sides of the proposed access lane
- as shown on drawing No 01 Rev 1 bearing the stamp dated 26NOV2019. The landscaping shall be carried out within 6 months of the date of occupation of the development hereby approved and any tree shrub or pant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.

REASON: In the interests of visual amenity and biodiversity.

**Signature(s)**

**Date:**

Drawing No 01 Rev 1 to be approved



**CMI Planners Ltd.**  
38 Airfield Road  
The Craugh  
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BT41 39Q  
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Mr Christopher Cassidy  
cassid@cmitplanners.com  
Mr Brendan Mulvaney  
mulvaney@cmitplanners.com

Client	C Kaogh	Scale/Sheet	1:2500 @ A4	Drawing no.	LD1
Project	Proposed Dwelling and Garage approx 150 North East of 230 Coalisland Road, Gortin, Dungannon, Tyrone BT71 6EP	Date	May 2019	Revision	A
Drawing Title	Location Map	Job No.	1760	Drawn By	-

## APPENDIX 1

### MAP1



Application site in yellow

Industrial Development adjacent in red

M/2003/1631/F - Proposed re-development of existing factory to include for new factory/office block and plant room and associated site works, Gradeall International, Farlough Road, Newmills, Dungannon PP Granted 08.11.2005

House across road with white outline

M/2006/0374/F – Proposed Dwelling & Garage, 80 M West of 225 Coalisland Road, Dungannon for Mr John Quinn PP Granted 23/03/2007

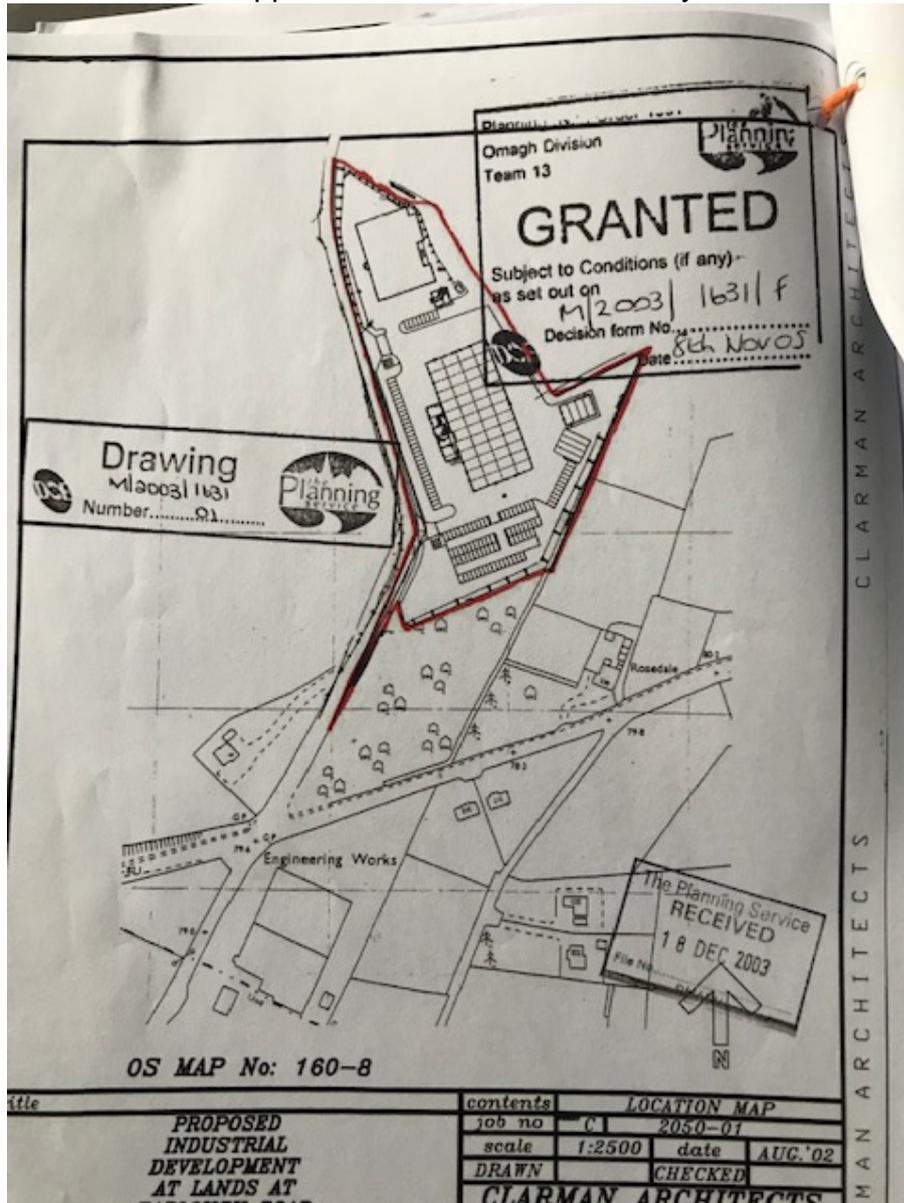
M/2007/1048/F - Proposed dwelling and garage with related site works. This application is for an alternative design and layout to that previously approved under file refernce M/06/0374/F, 80m West of 225 Coalisland Road, Dungannon for Mr John Quinn PP Granted 22/01/2008

Photo 3 Aerial Photo August 2010

Aerial photograph – 31 August 2010



M/2003/1631/F Approved Location Plan and Layout







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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/1274/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling with 6.5m Ridge height	<b>Location:</b> Site between 87 and 91 Kinrush Road Cookstown
<b>Applicant Name and Address:</b> Dwayne Mc Kenna 87 Kinrush Road Cookstown	<b>Agent name and Address:</b> PDC Chartered Surveyors 16 Gortreagh Road Cookstown BT8 9ET
<b>Summary of Issues:</b> Planning permission had been granted for infill development to allow 2 houses in a gap site, the applicant proposed a smaller site that would have meant the gap could accommodate more than 2 dwellings. Amendments have been received that show only 2 houses can be accommodated in the gap and this respects the character of the area. The agent for this application works for Mid Ulster District Council.	
<b>Summary of Consultee Responses:</b> DFI Roads – safe access to have sight lines of 2.4m x 75.0m and fsd of 75m as per drawings	
<b>Characteristics of the Site and Area:</b> The site which sits adjacent the Kinrush Rd is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 0.8km and 1.3km west of Ardboe and Lough Neagh respectively.  The site is a relatively flat rectangular shaped plot cut from the roadside frontage of a much larger agricultural field. The host field's frontage is located within a line of existing roadside development consisting of 3 dwellings with ancillary outbuildings / garages extending along the east side of Kinrush Rd, a minor rural road. The properties in the aforementioned line, all accessed directly off the Kinrush Rd, include: no. 87 Kinrush Rd, a bungalow dwelling and applicant's home; no. 91 Kinrush Rd, a 1 ½ storey dormer (extending from wall plate into roof) dwelling; and no. 93 Kinrush Rd, another bungalow dwelling. The host field's frontage is located within the line of development	

between no. 87 Kinrush Rd, located immediately to its south and nos. 91 and 93 Kinrush Rd located in that order to its north. No. 87 Kinrush Rd is orientated gable end onto Kinrush Rd fronting north onto the site. Nos. 91 and 93 Kinrush Rd front onto Kinrush Rd. Post and wire fencing primarily bounds the site with a mature hedge along the roadside.

Critical views of this site are limited until passing along the roadside frontage of the host field due to its location to the outside of a slight bend in the road and within an existing line of development, which alongside existing vegetation within the wider vicinity, helps screen it.

The immediate area surrounding the site is rural in nature. It is characterised primarily by flat agricultural land interspersed with single detached dwellings and farm holdings.

### **Description of Proposal**

This is a full application for a proposed dwelling with 6.5m ridge height on lands located between 87 & 91 Kinrush Road Coagh Cookstown. This application has been submitted following an outline application on part of this site, LA09/2021/0057/O.

### **Deferred Consideration:**

This application was before the Planning Committee in November 2021 with a recommendation to refuse and it was deferred for a meeting with the Planning Manager. A virtual meeting was held on 18 November 2021 and amended plans were submitted on 19 November 2021.

Members will be aware, from the previous report, outline planning permission has been granted a dwelling on this site. The planning permission was granted as this was considered as a gap that could accommodate up to a maximum of 2 dwellings as an infill opportunity under policy CTY3 of PPS21. The submission showed a new dwelling with a road frontage of 17m which did not respect the character and plot sizes and could, if approved, have resulted in 3 dwellings in the gap.

Amended plan have been submitted that show the proposed dwelling and its curtilage in accordance with the previous approval on the site. This now shows the proposed site with a frontage of 35m within a gap with an overall frontage of 70m, between the development to the north and the south. I consider this proposal now respects the exception in Policy CTY3 for infill development of gap sites as it would, in my opinion, allow a maximum of 2 dwellings within the gap, taking account of the character and plot sizes of the area. The proposed dwelling is a bungalow with rooms in the roof and a ridge height of 6.5m, this is similar in style and appearance to other dwellings to the north of the site and in my opinion respects the requirements of CTY3.

Neighbour notification was carried out to advise of the amended plans and one letter for 96 Kinrush Road was returned by Royal Mail as undeliverable. There is a statutory duty to neighbour notify and letter was delivered by hand to 96 Kinrush Road on 5 April 2022.

This proposal now meets with policy CTY4 of PPS21 and as such I recommend it is approved in substitution for the previous approval on the site and a condition attached to ensure this.

**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 the commencement of any development hereby permitted visibility splays of 2.4m x 75.0m and a forward sight distance of 75.0m shall be provided as shown on drawing no 02/1 bearing the stamp dated 19 NOV 2021. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. All hard and soft landscape works shall be carried out in accordance with the details as set out on drawing 02/1 bearing the stamp dated 19 NOV 2021 and the appropriate British Standard or other recognised Codes of Practice. The landscaping shall be carried out within 6 months of the date of occupation of the development hereby approved and any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.

REASON: In the interests of visual amenity and biodiversity.

4. One dwelling only shall be erected within the site identified in red on drawing No 01/1 bearing the stamp dated 19 NOV 2021.

Reason: This permission is granted in substitution of planning permission granted under ref LA09/2021/0057/O and is not for an additional dwelling on this site.

**Signature(s):**

**Date**



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

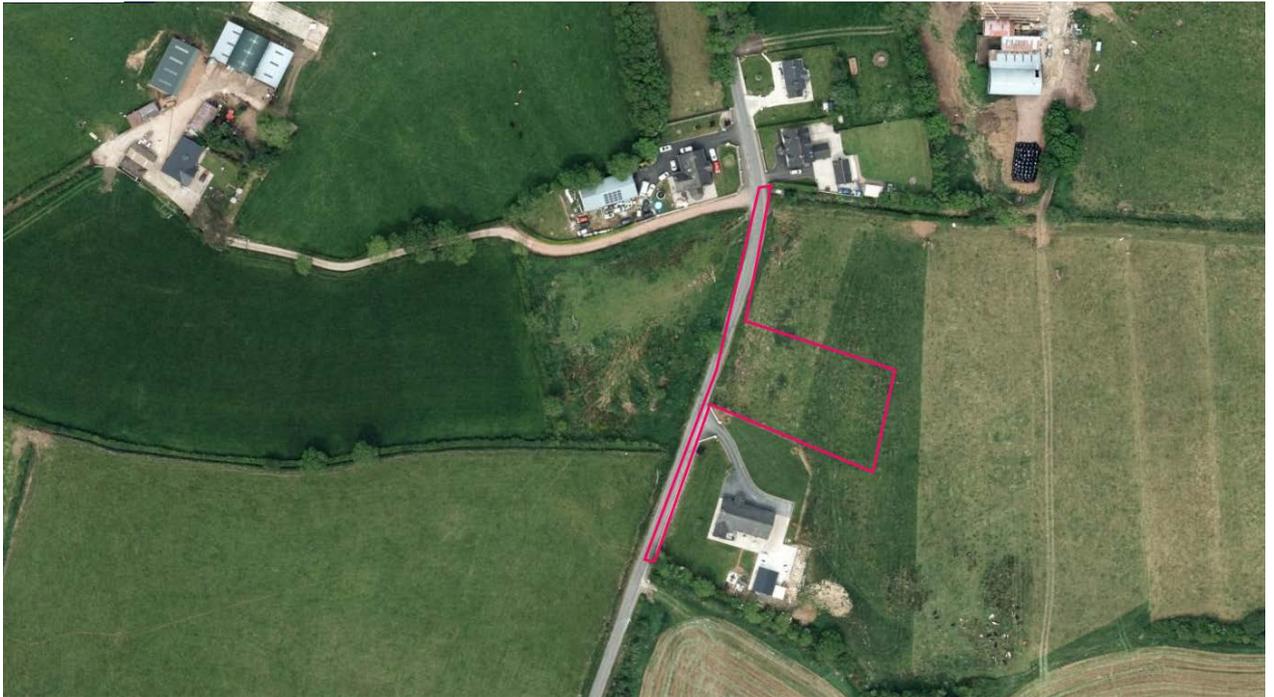
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1274/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling with 6.5m Ridge height	<b>Location:</b> Site between 87 and 91 Kinrush Road Cookstown
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Dwayne Mc Kenna 87 Kinrush Road Cookstown	<b>Agent Name and Address:</b> PDC Chartered Surveyors 16 Gortreagh Road Cookstown BT8 9ET
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

# Case Officer Report

## Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Outstanding
<b>Representations:</b>		
Letters of Support		None Received
Letters of Objection		None Received
Number of Support Petitions and signatures		No Petitions Received
Number of Petitions of Objection and signatures		No Petitions Received
<b>Characteristics of the Site and Area</b>		
<p>The site which sits adjacent the Kinrush Rd is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 0.8km and 1.3km west of Ardboe and Lough Neagh respectively.</p> <p>The site is a relatively flat rectangular shaped plot cut from the roadside frontage of a much larger agricultural field. The host field's frontage is located within a line of existing roadside development consisting of 3 dwellings with ancillary outbuildings / garages extending along the east side of Kinrush Rd, a minor rural road. The properties in the aforementioned line, all accessed directly off the Kinrush Rd, include: no. 87 Kinrush Rd, a bungalow dwelling and applicant's home; no. 91 Kinrush Rd, a 1 ½ storey dormer (extending from wall plate into roof) dwelling; and no. 93 Kinrush Rd, another bungalow dwelling. The host field's frontage is located within the line of development between no. 87 Kinrush Rd, located immediately to its south and nos. 91 and 93 Kinrush Rd located in that order to its north. No. 87 Kinrush Rd is orientated gable end onto Kinrush Rd fronting north onto the site. Nos. 91 and 93 Kinrush Rd front onto Kinrush Rd. Post and wire fencing primarily bounds the site with a mature hedge along the roadside.</p> <p>Critical views of this site are limited until passing along the roadside frontage of the host field due to its location to the outside of a slight bend in the road and within an existing line of development, which alongside existing vegetation within the wider vicinity, helps screen it.</p> <p>The immediate area surrounding the site is rural in nature. It is characterised primarily by flat agricultural land interspersed with single detached dwellings and farm holdings.</p>		
<b>Description of Proposal</b>		
<p>This is a full application for a proposed dwelling with 6.5m ridge height on lands located between 87 &amp; 91 Kinrush Road Coagh Cookstown. This application has been submitted following an outline application on part of this site, LA09/2021/0057/O.</p> <p>On the 22<sup>nd</sup> June 2021, LA09/2021/0057/O granted permission for a dwelling and garage on part of this site under the provisions of Policy CTY8 of PPS 21 - the development of a small gap site, subject to a number of conditions.</p> <p>In addition to the red line of the current site being larger and located further south than the previously approved site (See Fig 1, below) creating a considerably wider gap between no. 87 and 91 Kinrush Rd that could accommodate in excess of 2 dwellings, it does not adhere to a:</p> <ul style="list-style-type: none"> <li>• 6m ridge height condition; or</li> </ul>		

- condition that no development or raising of existing ground levels shall take place within the area identified at risk of surface water flooding (See Figs 2 & 3, below).



Fig 1: Site location plan showing current site outlined in red and site previously approved under outline planning application LA09/2021/0057/O hatched grey.

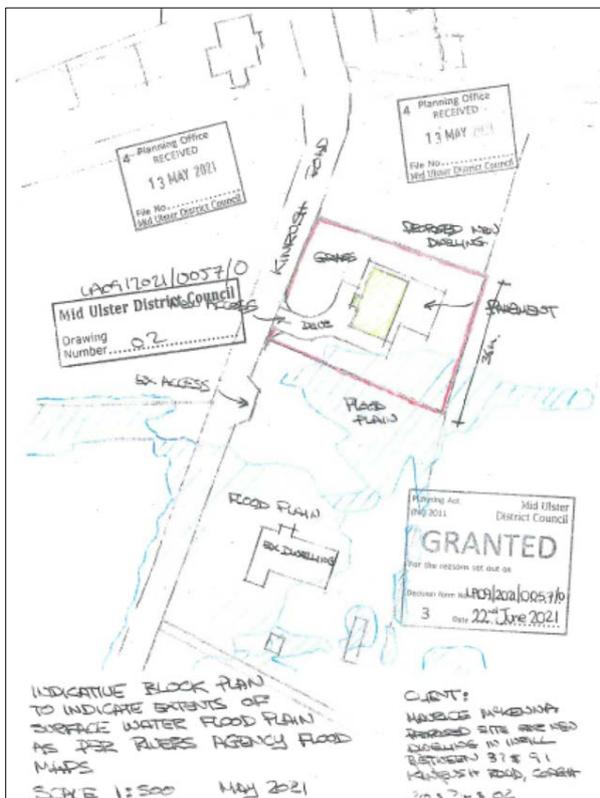


Fig 2: Indicative block plan submitted under LA09/2021/0057/O

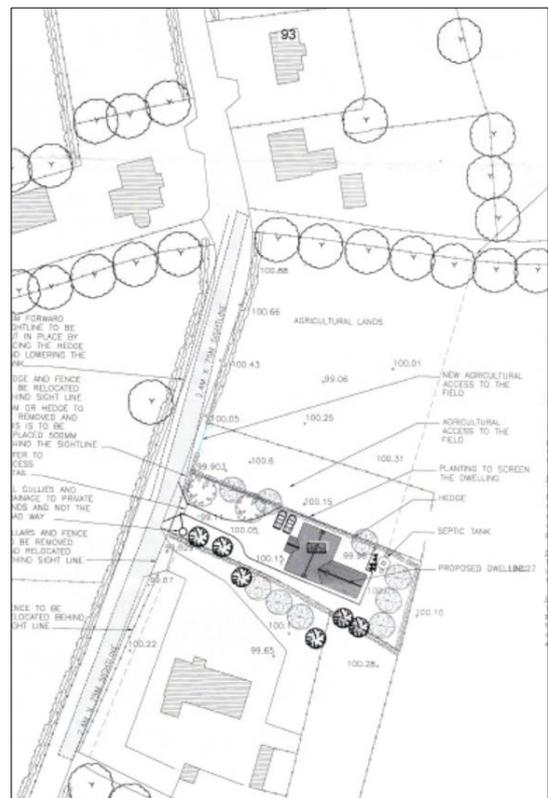


Fig3: Currently proposed block plan

As seen in Figs 1, 2 & 3 above, in addition to the site itself being located further south than the previously approved site the dwelling proposed is to be sited in its south side further increasing the gap between nos. 87 and 91 Kinrush Rd; and locating within the area identified at risk of surface water flooding.

Based on the plot size and location within of the dwelling currently proposed 4 / 5 dwellings could be squeezed between nos. 87 and 91 Kinush Rd.

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 15 (Revised): Planning and Flood Risk

Planning Policy Statement 21: Sustainable Development in the Countryside

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 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, no third party objections were received.

### **Relevant Planning History**

#### On site

LA09/2021/0057/O - Infill site for dwelling & garage - Site between 87 & 91 Kinrush Rd Coagh Cookstown - Granted 22<sup>nd</sup> June 2021

#### Adjacent Site

- I/2005/0858/O - Proposed dwelling house & garage - 130m S of 93 Kinrush Rd Cookstown – Granted 16<sup>th</sup> February 2006
- I/2006/0682/RM - Proposed dwelling house & garage - 130m S of 93 Kinrush Rd Cookstown - Granted 15<sup>th</sup> December 2006

The above applications relate to lands immediately south of the current site containing no. 87 Kinrush Rd, a bungalow dwelling and applicant's home.

### **Consultees**

1. DFI Roads were consulted in relation to access arrangements, movement and parking and are yet to respond.
2. Rivers Agency were consulted on the previous application on site as NI Flood Maps indicated surface water flooding within the site. River's Agency responded under PPS15 (Revised): Planning and Flood Risk, Policy FLD3 Development and

Surface Water – that a Drainage Assessment (D.A) is not required by the policy but the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere.

Whilst Rivers had not requested a D.A the agent was advised Policy requires one for any development proposal, except minor development, where: The proposed development is located in an area where there is evidence of a history of surface water flooding; or surface water run-off from the development may adversely impact upon other development or features of importance to nature conservation, archaeology or the built heritage. Such development will be permitted where it is demonstrated through the D.A that adequate measures will be put in place to effectively mitigate the flood risk to the proposed development and from the development elsewhere.

The agent subsequently submitted an indicative 1:500 scale block plan of the site (see Fig 2, further above in 'Description of Proposal') to show that the site could adequately contain a modest sized dwelling including hard standing areas, access driveway and gardens without unduly affecting the Flood Plain as per Rivers Agency Flood Maps. He outlined the block plan accurately shows the extent of the Surface Water Flood Plain encroaches onto a minimal portion of the proposed site. He also advised the applicant who has lived in the adjacent dwelling for the past 14 years has never encountered any flooding in the area.

Given the additional information received; and that all development close to the site was within the applicants control as such no third parties would be impacted I was content that in this instance a D.A was not required. However attached a condition to the subsequent approval that there be no development or changing in levels in the area of identified flooding, hatched blue, on the indicative block plan submitted; and an informative advising the applicant that any development is at own risk as no modelling has been carried out to define the flood risk area.

Re-consultation with Rivers Agency was not considered necessary as it is clear from NI Flood Maps that the current scheme (see Fig 3, further above in 'Description of Proposal') sits within the area of identified surface water flooding, hatched blue, on the previously submitted indicative block plan (see Fig 2, further above in 'Description of Proposal'). Accordingly, a D.A would be required.

### **Consideration**

Cookstown Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

The Strategic Planning Policy Statement for Northern Ireland advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21: Sustainable Development in the Countryside) is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21 -

Development in the Countryside and include the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

As detailed earlier in the 'Description of Proposal' this is a full application for a proposed dwelling with 6.5m ridge height on lands located between 87 & 91 Kinrush Road Coagh Cookstown. This application has been submitted following an outline application on site, LA09/2021/0057/O.

On the 22<sup>nd</sup> June 2021 outline application LA09/2021/0057/O granted permission for a dwelling and garage on part of this site under the provisions of Policy CTY8 of PPS 21 - the development of a small gap site (see Fig 1, further above) subject to a number of conditions.

In addition to the red line of the current site being larger and located further south than the previously approved site creating a considerably wider gap between no. 87 and 91 Kinrush Rd that could accommodate in excess of 2 dwellings, it does not adhere to a:

- 6m ridge height condition; or
- condition that no development or raising of existing ground levels shall take place within the area identified at risk of surface water flooding (See Figs 2 & 3, further above).

As seen in Figs 1, 2 & 3 above, in addition to the site itself being located further south than the previously approved site the dwelling proposed is to be sited in its south side further increasing the gap between nos. 87 and 91 Kinrush Rd; and locating within the area identified at risk of surface water flooding.

Policy CTY8 of PPS21 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

The previous application LA09/2021/0057/O was granted permission as it was considered in principle acceptable under CTY8 in that the gap between nos. 87 & 91 Kinrush Rd could only accommodate up to a maximum of 2 houses respecting the existing development pattern I do not consider the current application does.

Based on the plot size and location within of the dwelling currently proposed 4 / 5 dwellings could be squeezed between nos. 87 and 91 Kinush Rd (see Fig 3, further above). Even if the dwelling was centrally located within the current site, including it, 3 dwellings could potentially be located between nos. 87 and 91 Kinush Rd.

I consider the proposal is contrary to Policy CTY8 of PPS 21 in that it would result in the creation of ribbon development along Kinrush Road. Contrary to Policy CTY 14 of PPS 21 in that it would result in a suburban style build-up of development when viewed with existing buildings result in a detrimental change to the rural character of the countryside. And, contrary to Policy FLD 3 of PPS 15 in that insufficient information has been submitted to demonstrate the proposal will not cause flood risk to the proposed development and from the development elsewhere.

I note whilst a Drainage Assessment is required to demonstrate the proposal will not cause flood risk to the proposed development and from the development elsewhere it is not been sought as the principle of this development has not been established.

**Additional considerations**

In additional to checks on the planning portal Natural Environment Map Viewer (NED) and Historic Environment Map (NED) map viewers available online have been checked and identified no natural heritage features of significance or built heritage assets of interest on site.

The proposal will be conditioned to be under the 10.7m height threshold in the area requiring consultation to Defence Estates relating to Met Office – Radar. Additionally, whilst the site is located within an area of constraint on wind turbines, this proposal is for a dwelling and garage.

**Recommendation:** Refuse

**Neighbour Notification Checked:**

Yes

**Summary of Recommendation:**

Refuse

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY 1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Kinrush Road.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would therefore result in a detrimental change to the rural character of the countryside.
3. The proposal is contrary to Policy FLD 3 of Planning Policy Statement 15: Planning and Flood Risk in that insufficient information has been submitted to demonstrate the proposal will not cause flood risk to the proposed development and from the development elsewhere.

**Signature(s)**

**Date:**

