



04 December 2018

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt at Mid Ulster District Council, Ballyronan Road, MAGHERAFELT, BT45 6EN on Tuesday, 04 December 2018 at 19:00 to transact the business noted below.

Yours faithfully

Anthony Tohill
Chief Executive

AGENDA

OPEN BUSINESS

1. Apologies
2. Declarations of Interest
3. Chair's Business

Matters for Decision

Development Management Decisions

4. Receive Planning Applications 7 - 284

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2016/1301/F	Change of use from vacant dwelling to commercial offices with 2 storey rear return extension, parking area to rear and 2 new dwellings with associated site works within lands to rear at 43 The Square, Moy, for Mrs Monica Hughes.	APPROVE
4.2.	LA09/2017/0117/F	Detached dwelling and domestic garage to the rear of 37 Mayogall Road, Gulladuff, for PSK Developments.	APPROVE
4.3.	LA09/2017/0567/F	Extension to existing factory,	APPROVE

		engineering and other ground works including retaining structure to provide serviced industrial and commercial sites. Construction of a through road linking Coalisland Road to Carland Road and associated right hand turning lane including realignment of Rossmore road at lands at and between 48 Coalisland Road and 11 Cookstown Road, Dungannon (former Tyrone Brick Works) including lands at Rossmore Road and Cookstown Road for Maximus Crushing and Screening.	
4.4.	LA09/2017/0771/O	Dwelling and garage approx. 60m SW of 13 Barrack Road, Ballymaguigan, for Joe Crozier.	REFUSE
4.5.	LA09/2017/1039/F	Exit from new car park to rear of existing church and proposed church hall complex at lands N of Lecumpher Presbyterian Church, 106 Desertmartin Road, Moneymore, for The Kirk Session.	APPROVE
4.6.	LA09/2017/1101/O	Off-site replacement dwelling and domestic garage/store, with the existing dwelling to be retained as ancillary use to main dwelling at approx. 165m SW of 73 Ballyscullion Road, Bellaghy, for Mr Gavin Breslin.	REFUSE
4.7.	LA09/2017/1238/F	21 dwellings with associated car parking and landscaping at Killymeal House and adjacent lands, Killymeal Road, Dungannon for J and V Construction.	APPROVE
4.8.	LA09/2017/1333/O	Farm managers dwelling and garage at site adjacent to 91Glengomna Road, Draperstown, for Mr Alan McKeown.	REFUSE
4.9.	LA09/2017/1407/O	Industrial and commercial units on serviced sites on lands between A29 Cookstown Road/Rossmore Road and 48	APPROVE

		Coalisland Road, Dungannon, for Maximus Crushing and Screening.	
4.10.	LA09/2018/0246/O	Residential development, open space, access, landscaping, new roundabout and associated site works at lands to the rear of 40 Ballyronan Road adjoining Kilronan School and to the rear of 35-57 and 65-75 Killowen Drive, Magherafelt, for Acheson and Glover Ltd.	APPROVE
4.11.	LA09/2018/0450/F	Vary condition of planning permission M/2010/0065/F (in respect of access arrangements) at lands adjacent to 33 Drumflugh Road, Benburb, for Mr & Mrs Ken Crozier.	APPROVE
4.12.	LA09/2018/0485/F	Dwelling and domestic garage 100m to the rear of 98 Tulnacross Road, Dunamore, Cookstown, for Mr John McGurk.	REFUSE
4.13.	LA09/2018/0518/O	Residential development of approx. 48 dwellings, access, amenity space, landscaping and ancillary site works at lands W of Forthglen and adjacent to 130 & 130A Orritor Road and including access on to Tullagh Road, Cookstown, for JAMDAC Developments.	REFUSE
4.14.	LA09/2018/0720/F	Change of house design to previously approved dwelling under M/2006/1299/RM at approx. 60m E of 31 Mullaghmoyle Road, Coalisland, for Declan Dorrity.	APPROVE
4.15.	LA09/2018/0725/O	Bungalow and garage adjacent to 7a Keady Road, Upperlands, for Miss C O'Kane.	REFUSE
4.16.	LA09/2018/0730/O	Replacement dwelling at 60 Ferry Road, Derryloughan, Coalisland, for E Quinn.	APPROVE
4.17.	LA09/2018/0874/O	Site for dwelling and garage approx. 100m NE of 90 Ballyscullion Road, Bellaghy, for Anne Marie Mclvor.	REFUSE
4.18.	LA09/2018/0879/F	Extension to existing workshop and store and change of use of	APPROVE

		land for yard area at 158 Annagher Road, Coalisland, for Spincraft Ltd.	
4.19.	LA09/2018/0942/F	Change of use from office building to dwelling at 20m NW of 32 Luney Road, Desertmartin, for Doreen Leacock.	REFUSE
4.20.	LA09/2018/1056/F	Additional 5.5m wide vehicular access, 2 no 2m wide footpaths interlinked into existing footpath network including right turning lane to The Olde Fairways residential development (in substitution to previous approval M/2008/0501/F) adjacent to 90 Colebrooke Road, Fivemiletown, for Rahoran Ltd.	REFUSE
4.21.	LA09/2018/1063/F	Substitution of planning permission LA09/2017/0022/O for site located immediately N of permitted site at 85m N of 25 Bogashen Road, Portglenone, for JFM Construction Ltd.	APPROVE
4.22.	LA09/2018/1120/O	Infill dwelling 40m N of 98 Kilrea Road. Portglenone, for Noel Henry.	REFUSE
4.23.	LA09/2018/1141/F	Construction of modular building with associated services and waste water treatment plant; extension of upper car park with improvement works to existing site access and pedestrian link footpath between lower and upper car parks at Knockmany Forest, Augher, for Mid Ulster District Council.	APPROVE
4.24.	LA09/2018/1152/F	Two apartments in lieu of previously approved dwelling (LA09/2017/1542/F) at approx. 7m NW of 6 Ferguy Heights, Cookstown, for Roger McCombe.	REFUSE
4.25.	LA09/2018/1196/O	Dwelling and garage adjacent to 19 Loup Road, Moneymore, for Mr P E Moran	REFUSE
4.26.	LA09/2018/1238/F	Retention of existing agricultural storage shed at approx. 20m SW of 31A Culbane Road, Portglenone, for Ger McPeake.	REFUSE
4.27.	LA09/2018/1282/O	Dwelling and garage 110m NE of	REFUSE

		4 Tamnymullan Lane, Maghera for Mr Robert Sufferin	
4.28.	LA09/2018/1323/O	Dwelling and domestic garage at land approx. 120m W of 21 Legmurn Road, Stewartstown, for Archie and Eileen Bowden.	REFUSE

5. Receive Deferred Applications

285 - 312

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2017/0802/F	Replacement dwelling at 124 Sixtowns Road, Labby, Draperstown, for Alastair Clerkin.	APPROVE
5.2.	LA09/2017/1474/O	Dwelling and garage 250m SE of 6 Churchtown Road, Cookstown, for Mark Bell.	APPROVE

Matters for Information

6 Minutes of Planning Committee held on 6 November 2018 313 - 332

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

Matters for Decision

7. Receive Consultation Response to Fermanagh & Omagh District Council
8. Receive Statement of Common Ground - LDP Sperrins Forum
9. Receive Statement of Common Ground - LDP Cross Border
10. Receive Enforcement Report

Matters for Information

11. Confidential Minutes of Planning Committee held on 6 November 2018
12. Enforcement Case Live List
13. Enforcement Cases Opened
14. Enforcement Cases Closed



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1301/F	Target Date:
Proposal: Proposed Change of Use from Vacant dwelling to commercial offices with 2 storey rear return extension with parking to rear and 2 no. new build dwellings with associative siteworks within lands to rear.	Location: 43 The Square Moy
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Mrs Monica Hughes 1 Drumgannon Heights Moy Co Tyrone BT71 7TW	Agent Name and Address: MMAS Conway Mill 5-7 Conway Street Belfast BT13 2DE
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Advice

Advice and Guidance	Historic Environment Division (HED)	Substantive Response Received
Statutory	Historic Environment Division (HED)	Error
Representations:		
Letters of Support	None Received	
Letters of Objection	15	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues A number of objections have been received from local residents, business owners and MLAs raising the following issues Access and parking Loss of privacy/amenity Overshadowing and overlooking to existing properties Out of keeping with the character of the conservation area		
Characteristics of the Site and Area The application site is a long narrow rectangular shaped plot located at number 43 the square , Moy. The site consists of a street frontage 2 storey terraced dwelling with an archway which provides access to the rear garden of 42, 43 and 44 of The Square Moy. The application site includes the rear garden of No 43 which is rectangular in shape. The majority of this site is approximately 1.5 metres in height above the level of the courtyard immediately adjacent to the rear of the street frontage dwellings. The dwelling on frontage is in poor condition and is not currently occupied. No 44 The Square is currently used as a garden centre. The eastern and western boundaries of the site are defined by stone walls approximately 2.5m in height. This site is located inside the settlement limit and Conservation Area of Moy. The area has a mix of land uses including Garden centre, offices, Church and associated hall to west, residential, retail, café and public houses. There is on street parking directly in front of the site.		
Description of Proposal The proposal seeks planning permission for Change of Use from Vacant dwelling to commercial offices with 2 storey rear return extension with parking to rear and 2 no. new build dwellings with associative site works within lands to rear.		
Planning Assessment of Policy and Other Material Considerations I have assessed this proposal under the following: SPSS - Strategic Planning Policy Statement for NI Dungannon Area Plan 2010		

Planning Policy Statement 1 - General Principles
 Planning Policy Statement 3 - Access, Movement and Parking
 Planning Policy Statement 6 – Planning Archaeology and the built heritage.
 Planning Policy Statement 7 - Quality Residential Environments
 Creating Places

The site has not been identified for a specific landuse by Mid Ulster Development Plan Team for the new Local development Plan. As stated by SPPS, PPS7 is the guiding policy for residential development until such times as the new LDP has been adopted.

Planning History.

M/2009/0914/F - This application related to the garden area of the current site and was for a pair of semi detached dwellings. This application was refused by planning service and then dismissed at appeal. The refusal reasons from Planning Service related to for reasons relating to PPS7 QD1

BH12 of PPS6

BH11 of PPS6

Fragmentation of curtilage of 42/43

Access

The PAC dismissed this appeal for the above reasons except the access citing an appeal in Killyman Street (2008//A0350) and a planning approval for a mixed use development at Dungannon Street M/2007/0801)

M/2013/0409/F – Approval for the change of use from dwelling to offices and erection of a dwelling to the rear.

LA09/2016/0590/PAD – Discussion took place between HED, TNI and Planning with all points discussed in full before planning application and listed building consent to be submitted.

Details of proposal.

Dwelling A is to be sited parallel to the side boundary walls of the rear garden 34m from the rear of the frontage building. Dwelling B is located 60 metres to the rear of the frontage building. Footprint of dwelling A is approximately 92m2 and dwelling B is approx. 95m2.

Access to dwelling is through existing arch and runs parallel to the boundary wall on the East.

The proposed dwelling A has over 120m2 of garden area remaining, Dwelling B has in excess of 220m2 of private amenity space.

Dwelling A is designed to look like a single storey out building, with a lower ground floor hidden from view. Dwelling B is similarly designed. The dwellings are minimalist with timber walls, a black cement sheet roof with timber finishes to windows and doors, both dwellings providing the majority of their living space at below ground floor level.

Representations

A number of objections have been received from local residents, business owners and MLAs raising the following issues

Access and parking

Loss of privacy/amenity

Overshadowing and overlooking to existing properties

Out of keeping with the character of the conservation area

PPS7 Quality Residential Developments

QD1

This proposal is significantly reduced from the previous refusal M/2009/0914/F (2 No 2 storey semi-detached dwellings with a ridge height of 8.5 metres above ground level), and the ridge

heights have been reduced from 6.5 on the last approval albeit for one dwelling (M/2013/0409/F) to 4.5 metres with this proposal. As the design of the proposed dwellings are single storey with roof lights and small windows the appearance is more symbolic of a domestic outbuilding or shed. The low ridge heights, lack of windows and careful design including a mono pitch roof, lend itself to avoiding impacting on neighbouring properties in terms of overlooking, overshadowing or other amenity issues. Both dwellings would also enjoy well over the threshold of private amenity space. In my opinion the current proposal is acceptable in terms of design, siting and layout.

With regards to the access DFI Roads Service have recommended Refusal for this proposal stating;

“TNI does agree that the existing access does not abut a busy road. Indeed traffic is slow moving and the predominant use is for car parking and servicing of the adjoining properties. TNI has taken into account paragraph 5.44 which allows for a reduction in parking but not the removal of parking. If MUC are minded to set aside parking and servicing for this proposal then it may well reduce the intensification issue which requires TNI to recommend improvement to the existing sub-standard entry. Mention is also made in respect of the sight splays. PPS 3 does indeed allow for a reduction in sight splays where appropriate but they cannot be reduced lower than 2.0m x 33m where intensification is shown to occur. When making the decision on the use of the access MUC should also be mindful of paragraph 5.23 of PPS 3 access for emergency services. TNI notes that a proposal will be put forward to mitigate against the requirement of 2.0m x 2.0m pedestrian splays at the access.

In arriving at the original recommendation to refuse TNI has not given significant weight to the fact the proposal lies in a conservation area. Intensification has been the main policy consideration and TNI's focus has been on safe access and pedestrian safety. “

Assessment

Car parking and servicing.

The Council must have regard to the planning appeal decision 2010/A0266 for the previous proposal on site which was for 2 dwellings rather than one and consider the fact that the current proposal is no more intensive. The current scheme shows 8 parking spaces in total, as well as significant on street parking to the front of the premises. In the planning appeal for the previous scheme for two houses, the commissioner stated “I am not persuaded that the level of parking provision would justify rejection of the proposal. The width and height of the archway does not permit servicing to the development, this is a constraint imposed by the building fabric throughout the whole village. The loading and turning of service vehicles within the site would be inappropriate in this context. ”

Traffic movement and visibility.

Again the council must have regard to the same planning appeal decision. The commissioner stated “the evidence is that there have been no recorded accidents at this location, residents proceed with caution when using the archway. I am therefore not persuaded that the deficiency in the visibility splays of itself would justify rejection of the proposal.”

Intensification.

There are a number of examples within the Moy where permission has been granted for intensification of use, with regards to this case the appeals commissioner stated “The increased use of the archway access would not give rise to significant conditions that would prejudice the safety and convenience of road users at this location”

The department did not sustain the fifth, sixth and seventh refusal reasons relating to Roads.

PPS 6 Archaeology and Built Heritage

NIEA : HED have been consulted with this proposal and do not have objections with the proposed works to preserve and re use the front building as office accommodation, however, it has concerns over the erection of dwellings to the rear stating that “it would be detrimental to the setting of the near-by listed buildings under Para 6.13, SPPS and BH11 (Development affecting the setting of a listed building), PPS6.

It must be noted that NIEA; HBU did recommend the principle of this development is acceptable with both the previous applications albeit for one larger dwelling to the rear.

With regards to PPS 6 Policy BH11, the Council will not normally permit development which would adversely affect the setting of a listed building. Proposals will normally only be considered appropriate where all the following criteria are met:

- (a) the detailed design respects the listed building in terms of scale, height, massing and alignment;
- (b) the works proposed make use of traditional or sympathetic building materials and techniques which respect those found on the building; and
- (c) the nature of the use proposed respects the character of the setting of the building.

(a)The design of the proposal is such so as the dwellings will resemble domestic out buildings, the height, size and scale will also respect the listed building within the site as well as those nearby and read as a harmonious group.

(b)The materials used include timber walls, concrete sheet roof and timber window and doors, all traditional materials sympathetic to those found in the surrounding area.

(c)The use of the proposal as dwellings respects the character of the setting of the existing building and the surrounding area.

The proposed dwellings are set well back from the existing listed building and the change of use element of the proposal involves the re use and preservation of the listed building which is welcomed by HED. The neighbouring grade b listed church is also of a significant distance so as not to be effected

It must also be noted that there has been a recent replacement of the nearby church hall, which in my opinion would already impact on the views from the Listed church due to its location next to, and in front of the church.

With regards to Policy BH12 – New development in a conservation area

The Department will normally only permit development proposals for new buildings, and changes of use in, or which impact on the setting of, a conservation area where all the following criteria are met:

- (a) the development preserves or enhances the character and appearance of the area;
- (b) the development is in sympathy with the characteristic built form of the area;
- (c) the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;
- (d) the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;
- (e) important views within, into and out of the area are protected;
- (f) trees and other landscape features contributing to the character or appearance of the area are protected; and
- (g) the development conforms with the guidance set out in conservation area documents.

It is important to note at the beginning that the policy does not wish to stifle development in conservation areas. The emphasis will be on the careful control and positive management of change, to enable the area to remain alive and prosperous, but at the same time to ensure that any new development accords with the area’s special architectural or historic interest.

It must also be noted that the principle of a new dwelling to the rear has already been established, albeit for a single but larger dwelling than either of the proposed. Also, in this case the applicant has designed the dwellings particularly well, to help them blend in with the other neighbouring backland buildings. They are visibly smaller than all the previous schemes and adopting materials, siting and form of those surrounding backland buildings it preserves the historic pattern of the village whilst also respecting the nature of the view from the neighbouring church. The preservation of the existing listed building and bringing it back into use will significantly enhance the character and appearance of the area. The siting and the scale of the proposed dwellings will ensure there are no impact on the views both into and out of the site.

On the whole the development of new buildings in a conservation area should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. New buildings do not have to directly imitate earlier styles, rather that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own and it is my opinion that this proposal meets this guidance.

In my view the character of this conservation area is preserved primarily because the buildings will not be seen from the street, the long elongated strip garden pattern remains in place and the dwellings have been designed to look like outbuildings which are found in these strip gardens.

Approval recommended.

Neighbour Notification Checked

Yes

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. Notwithstanding the provisions of the Planning (General Development) Order (Northern Ireland) 1993, or any Order revoking and re-enacting that Order, no garages/extensions shall be erected other than those expressly authorised by this permission.

REASON: To protect the setting of the Listed Building

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.

3. Notwithstanding the terms and conditions of the Department of Environment's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or

footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DFI Roads Section Engineer Moygashel Depot, Main Road, Moygashel

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 sites. Any mud, refuse, etc deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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.

No construction plant or materials shall be stored within the curtilage of the public road or footpath.

It is the responsibility of the developer to ensure that:

Surface water does not flow from the site onto the public road

The existing roadside drainage is accommodated and no water flows from the public road onto the site

The developer should note that this planning approval does not give consent to discharge water into a DFI Roads drainage system.

Signature(s)

Date:

ANNEX	
Date Valid	19th September 2016
Date First Advertised	6th October 2016
Date Last Advertised	15th March 2018
Details of Neighbour Notification (all addresses) Rosemary Barton MLA 1 Regal Pass, Enniskillen, Fermanagh, Northern Ireland, BT74 7NT Edith Elliott 21 College Lands Road, Moy, Charlemont, Armagh, Northern Ireland, BT71 7SE Edith Elliott 21, College Lands Road, Moy, Charlemont, Armagh, Northern Ireland, BT71 7SE The Owner/Occupier, 38 Killyman Street, Moy, May McLean 39 Culkeeran Road, Dungannon, Tyrone, Northern Ireland, BT71 7DZ May McLean 39 Culkeeran Road, Dungannon, Tyrone, Northern Ireland, BT71 7DZ May McLean 39, Culkeeran Road, Dungannon, Tyrone, Northern Ireland, BT71 7DZ The Owner/Occupier, 40 The Square Moy Tyrone Kenneth and Margaret Coalter 40 The Square, Moy, Tyrone, Northern Ireland, BT71 7SG Kenneth and Margaret Coalter 40, The Square, Moy, Tyrone, Northern Ireland, BT71 7SG The Owner/Occupier, 41 The Square Moy Tyrone The Owner/Occupier, 42 The Square Moy Tyrone The Owner/Occupier, 43 The Square Moy Tyrone The Owner/Occupier, 44 The Square Moy Tyrone Beattie 44 The Square, Moy, Tyrone, Northern Ireland, BT71 7SG V Beattie 44 The Square, Moy, Tyrone, Northern Ireland, BT71 7SG V Beattie 44, The Square, Moy, Tyrone, Northern Ireland, BT71 7SG Alan Coalter 69 Kilmachugh Road, Armagh, Mowhan, Armagh, Northern Ireland, BT60 2EN Alan Coalter 69, Kilmachugh Road, Armagh, Mowhan, Armagh, Northern Ireland, BT60 2EN Alan Coalter 69, Kilmachugh Road, Armagh, Mowhan, Armagh, Northern Ireland, BT60 2EN	

Rosemary Barton MLA South Tyrone Office, 13 Scotch Street, Dungannon, BT70 1AR Rosemary Barton MLA Ulster Unionist Party, 13 Scotch Street, Dungannon, Tyrone, Northern Ireland, BT70 1AR	
Date of Last Neighbour Notification	29th January 2018
Date of EIA Determination	
ES Requested	No
<p>Planning History</p> <p>Ref ID: M/1994/0361 Proposal: Extensions and alterations to dwelling Address: 42 THE SQUARE MOY Decision: Decision Date:</p> <p>Ref ID: M/1994/0388 Proposal: Extension to dwelling Address: 42 THE SQUARE MOY DUNGANNON Decision: Decision Date:</p> <p>Ref ID: M/1999/0122 Proposal: Alterations and Extension to Dwelling Address: 41 THE SQUARE MOY Decision: Decision Date:</p> <p>Ref ID: M/1999/0123 Proposal: Alterations and Extension to Dwelling Address: 41 THE SQUARE MOY Decision: Decision Date:</p> <p>Ref ID: M/2001/1030/F Proposal: Change of Use from House to Shop or Office Address: 44 The Square, Moy Decision: Decision Date: 15.02.2002</p>	

Ref ID: M/2001/1307/LB

Proposal: Fire Alarm System and Upgrading Ceilings to 1 Hr Fire Protection

Address: 44 The Square, Moy, Dungannon

Decision:

Decision Date: 15.02.2002

Ref ID: M/2008/0301/F

Proposal: Erection of 3 No (two storey) dwellings and landscaping (Amended proposal)

Address: Lands to the rear of No.42 & No.43, The Square, Moy

Decision:

Decision Date: 03.06.2009

Ref ID: M/2009/0914/F

Proposal: Construction of 2 semi detached 2 storey townhouses (one 2 - bedroom and one 3 - bedroom), provision of associated car-parking area/courtyard and all related siteworks

Address: Property to the rear of 42/43 The Square, Moy, Co Tyrone

Decision:

Decision Date: 18.10.2010

Ref ID: LA09/2016/0590/PAD

Proposal: Two storey rear return extension with 2no dwellings within backland curtilage

Address: Lands to the rear of 43 The Diamond, Moy,

Decision:

Decision Date:

Ref ID: LA09/2016/1301/F

Proposal: Change of use from vacant dwelling to commercial offices with 2 storey rear return extension with parking to rear and 2 no new build dwellings with associative siteworks within lands to rear

Address: 43 The Square, Moy,

Decision:

Decision Date:

Ref ID: M/2011/0269/F

Proposal: Extension to dwelling comprising new kitchen, dining and family room along with walled garden (amended plans)

Address: 42, The Square, Moy, BT71 7SG,

Decision: PG

Decision Date: 24.08.2012

Ref ID: M/2013/0409/F

Proposal: Change of use of 43, The Square, Moy from dwelling to offices and erection of a dwelling on lands to the rear of 42 and 43 The Square, Moy

Address: 43, The Square, Moy and lands to the rear of 42 and 43 The Square, Moy,
Decision: PG
Decision Date: 24.07.2014

Ref ID: M/2011/0298/DCA

Proposal: Demolish rear return at 42, The Square, Moy and provide new kitchen/family room extension

Address: Rear return at 42, The Square, Moy,

Decision: CG

Decision Date: 24.08.2012

Ref ID: M/2011/0344/LBC

Proposal: Extension To Dwelling (Amended Plans)

Address: 42 The Square, Moy, Co. Tyrone BT71 7SG,

Decision: CG

Decision Date: 24.08.2012

Summary of Consultee Responses

DFI Roads and NIEA HED were consulted.

With regards to the access DFI Roads Service have recommended Refusal for this proposal. In arriving at the original recommendation to refuse Roads have not given significant weight to the fact the proposal lies in a conservation area. Intensification has been the main policy consideration and TNI's focus has been on safe access and pedestrian safety. In addition at the previous appeal the Roads reasons for refusal were not sustained.

NIEA : HED have also been consulted with this proposal and do not have objections with the proposed works to preserve and re use the front building as office accommodation, however, it has concerns over the erection of dwellings to the rear stating that "it would be detrimental to the setting of the near-by listed buildings under Para 6.13, SPPS and BH11 (Development affecting the setting of a listed building), PPS6. It must be noted that NIEA; HBU did recommend the principle of this development is acceptable with both the previous applications albeit for one larger dwelling to the rear.

Drawing Numbers and Title

Drawing No. 01

Type: Site location

Status: Submitted

Drawing No. 02 r1

Type: Existing layout

Status: Submitted

Drawing No. 03 r1

Type: Proposed front elevation

Status: Submitted

Drawing No. 04 r2

Type: Proposed Layout

Status: Submitted

Drawing No. 05 r2

Type: House type A

Status: Submitted

Drawing No. 06 r2

Type: House type B

Status: Submitted

Drawing No. 07 r1

Type: Sections

Status: Submitted

Drawing No. 08 r1

Type: Proposed terrace plans

Status: Submitted

Drawing No. 09A

Type: Existing and Proposed elevations

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0117/F	Target Date:
Proposal: Proposed new detached dwelling and detached domestic garage	Location: To the rear 37 Mayogall Road Gulladuff Maghera
Referral Route: Objection received.	
Recommendation:	APPROVE
Applicant Name and Address: PSK Developments 107 - 111 Main Street Maghera BT46 5AB	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice

Representations:

Letters of Support	None Received
Letters of Objection	5

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
Summary of Issues Objection received to original proposal, proposal since reduced to one dwelling, no further objections received. Approval recommended of reduced scheme	
Characteristics of the Site and Area <p>The proposal site is located within the settlement limits of Gulladuff. The site currently has a detached single storey dwelling and detached single garage on site along with large garden and parking space. The site is bounded on all sides by mature vegetation. Located immediately adjacent on the SW boundary is a new 2 storey dwelling under construction, while on the NE boundary there are 3 detached 2 storey properties. To the rear of the proposal site is agricultural land. The site is flat in nature and is currently accessed on the SW corner.</p>	
Description of Proposal <p>Proposed new detached dwelling and detached domestic garage.</p>	
Planning Assessment of Policy and Other Material Considerations <p>I have considered the proposal under the following:</p> <p>Consultees: - NI Water were asked to comment and responded on 27.02.2017 with no objections to the proposal Environmental Health were asked to comment and responded on 04.03.2017 with no objections to the proposal. DfI were asked to comment and responded on 15.03.2017 making the following comments:</p> <ul style="list-style-type: none"> - the 5 units should be designed to an adoptable standard - dimension the spacing between the two accesses - ideally from a road safety view, TNI would recommend that the whole development is served by one access. <p>Neighbours: Owners/Occupiers of Nos 34, 35, 36, 37, 38, 39, 39A _ 40 Mayogall Road, Gulladuff were notified of this proposal on 23.02.2017. Once the scheme then was reduced the same neighbours were renotified.</p> <p>In line with legislation this proposal was advertised in the local press on 09.02.2017.</p> <p>Objections:</p> <ol style="list-style-type: none"> 1. On 27.02.2017 an objection was received from Murty Young of No. 40 Mayogall Road who expressed an objection against the proposal on the following planning considerations: <ul style="list-style-type: none"> - concerns regarding proposed access arrangements - scale of the development which is contrary to planning policy (the SPSS and PPS7) and the established pattern of the development in the area. 2. A second objection was received from Murty Young of No. 40 Mayogall Road dated 10.03.2017, this objection was also signed by Joan Young (No. 36 Mayogall Road whereby he expresses his objection to the proposal on the following grounds: 	

- inaccuracies/omissions on the submitted application form and associated drawings.
- proposal not complying with relevant policy.
- road safety issues

3. On 09.03.2017 an objection was received from Oonagh McCloy of 39A Mayogall Road who expressed concern at the proposal due to the scale of the development and the established pattern of development in the surrounding area.

4. On 09.03.2017 an objection was received from Jim Carmichael of 39 Mayogall Road who expressed concern at the proposal due to the scale of development, the established pattern of development and the proposed additional access.

5. A second objection was received from Oonagh Mc Cloy of 39A Mayogall Road dated 14.03.2017 whereby she expresses an objection to the proposed developments scale and form. Within this correspondence Ms McCloy details her concerns on the grounds of:

- inaccuracies/omissions on the submitted application form and associated drawings.
- proposal not complying with relevant policy
- road safety issues.

Initially the proposal was for 6 dwellings however following the submission of these objections and advice that the scheme should be reduced a revised scheme was submitted on 13.04.2018 for 5 dwellings. The proposal was readvertised and the neighbours renotified.

In the consideration of this proposal I assessed it against Planning Policy Statement 7 - Quality Residential Environments. Within this policy it states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of those areas. In addition it also goes on to state that 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 landscape and hard surfaced area; - having considered the proposal for 5 houses on this site I feel this level of development does not respect the surrounding context which is predominantly single or at the most 2 dwellings within large plots similar to the proposal site all of which has an identifiable building line.

b) features of the archaeological and built heritage, and landscaped features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development - there are no immediate or adjacent archaeological or built heritage sites to this proposal site.

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. - No public open space has been shown however this is not required for this size of proposal. Each unit has an area of private space shown, all of which exceed the minimum requirement according to policy. No landscaping details or fencing/wall details have been given in order to soften the visual impact of the development.

d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development - this requirement is not required for this size of proposal.

e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures - the proposed location is within close proximity to local neighbourhood facilities and provides adequate and convenient access to public transport.

f) adequate and appropriate provision is made for parking - two off street parking spaces have been shown for each unit proposed.

g) the design of the development draws upon the best local traditions of form, materials and detailing - the proposed units are all two storey with ridge heights in excess of 8metres. The design of them is traditional and in keeping with those within Gulladuff itself.

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; - Immediately adjacent on the SW side is a newly built residential unit still under construction, the separation distance between those proposed and this existing is acceptable. Immediately adjacent on the NE side are three detached dwellings, all of which are 2 storey, it should be noted that 2 out of these 3 properties are sited on an area of land the same size as that which this proposal has shown for the 5 properties.

i) the development is designed to deter crime and promote personal safety - the proposal satisfies this requirement.

Following discussions with the agent re the proposed housing development advice was given that the proposal would not be acceptable on that particular site as it was considered to be overdevelopment. A revised scheme was submitted 22.05.2018. This revised scheme was redvertised on 21.06.2018 and all previously notified neighbours and objectors have been renotified of the reduced scheme. No representations have been received to date. Having consideration of these amendments it was still felt that the proposal was overdevelopment of the site, the agent/applicant was advised of this and amendments resubmitted 20.07.2018 showing the existing dwelling (No. 37) being retained and one additional dwelling to the rear of the site. The proposal was readvertised and neighbours re notified with the reduced scheme. No representations have been received.

Consultees: NI Water were asked to comment and responded on 07.06.2018 with no objections. Environmental Health were asked to comment and responded on 5th July 2018 with no objections.

Dfl were asked to comment and responded on 31.10.2018 with no objections.

In the consideration of this proposal I assessed it against Planning Policy Statement 7 - Quality Residential Environments. Within this policy it states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of those areas. In addition it also goes on to state that 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 landscape and hard surfaced area; - I feel this reduced scheme which sees the existing detached single storey dwelling remaining with minor alterations and the addition of a single detached 2 storey dwelling to the rear of the site would respect the surrounding context and would be appropriate to the character and topography of the site. The additional 2 storey dwelling is located to the rear of the site with a separation between it and the existing dwelling being approx. 18metres. The proposed dwelling has a turned orientation so isnt looking directly into any neighbouring properties. Along this stretch of land within Gulladuff this style of development located to the rear is common. Two new detached single garages are proposed located between the proposed and existing dwelling and each property has rear garden space in excess of 70sqm. All existing planting is to be retained and maintained on the boundaries. The existing access is proposed to be paired to allow separate accesses into each property.
- b) features of the archaeological and built heritage, and landscaped features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development - there are no immediate or adjacent archaeological or built heritage sites to this proposal site.
- 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. - No public open space has been shown however this is not required for this size of proposal.
- d) adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development - this is not a requirement for this size of proposal.
- e) a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures - the proposed location is within close proximity to local neighbourhood facilities and provides adequate and convenient access to public transport.
- f) adequate and appropriate provision is made for parking - off street private parking has been provided for the proposed dwelling and the existing dwelling still has in curtilage parking provided.
- g) the design of the development draws upon the best local traditions of form, materials and detailing - the proposed unit is two storey with a ridge height in excess of 8metres. The design of them is traditional and in keeping with those within Gulladuff itself.
- 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; - as previously discussed the proposed new property is sited approx. 18 metres from the existing dwelling therefore even though the proposed dwelling is 2 storey I do not have any issues regarding potential overlooking, loss of light, overshadowing, noise or other disturbance.
- i) the development is designed to deter crime and promote personal safety - the proposal satisfies this requirement.

Having considered all of the above I feel this revised proposal is more acceptable and would recommend an approval.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Revised and reduced scheme acceptable.

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. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of completion of the development it shall be replaced within the next planting season by another tree or trees in the same location of a species and size as specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

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

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

4. The vehicular access, including visibility splays and any forward sight line shall be provided in accordance with the approved plans, prior to the commencement/occupation/operation of any works or 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 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.

5. 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 before the development hereby permitted (is occupied / becomes operational) and shall be retained and kept clear thereafter.

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

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

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

7. No other development hereby permitted shall be commenced until the road works indicated on Drawing No. 02/3 bearing the date stamp 20th July 2018 have fully completed in accordance with the approved plans.

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

Informatives

1. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or waterline@niwater.com, upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.

Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at www.niwater.com/servicesfordevelopers.asp

All services within the development should be laid underground.

None of the dwellings hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans.

None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.

Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

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.

3. This permission authorises only private domestic use of the [proposed garage/premises] and does not confer approval on the carrying out of trade or business there from.

4. 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 which separate permissions and arrangements are required.

5. The applicant is advised that under Article 11 of the Roads (NI) Order 1993, the DRD is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road as a result of extraordinary traffic generated by the proposed development.

6. 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.

7. Notwithstanding the terms and conditions of the Planning Authority's approval set out above, you are required under Article 71 - 83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the TransportNI Section Engineer whose address is DfI Roads, Loughry Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.

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

9. It is the responsibility of the developer to ensure that:

- surface water does not flow from the site onto the public road;
- the existing roadside drainage is accommodated and no water flows from the public road onto the site;
- surface water from the roof of the development hereby approved does not flow onto the public road, including the footway;
- the developer should note that this planning approval does not give consent to discharge water into a DfI Roads drainage system.

Signature(s)

Date:

ANNEX	
Date Valid	27th January 2017
Date First Advertised	9th February 2017
Date Last Advertised	21st June 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier, 34 Mayogall Road Moyagall Gulladuff The Owner/Occupier, 35 Mayogall Road, Moyagall, Gulladuff, Londonderry, BT45 8PD Joan Young 36 Mayogall Road Moyagall Gulladuff The Owner/Occupier, 37 Mayogall Road Moyagall Gulladuff Murty Young 38 Mayogall Road Moyagall Gulladuff The Owner/Occupier, 39 Mayogall Road Moyagall Gulladuff Jim Carmichael 39 Mayogall Road, Moyagall, Gulladuff, BT45 8PD, The Owner/Occupier, 39A Mayogall Road Moyagall Gulladuff Oonagh McCloy 39A Mayogall Road, Moyagall, Gulladuff, MAGHERAFELT, BT45 8PD The Owner/Occupier, 40 Mayogall Road Moyagall Gulladuff Murty Young Email Oonagh McCloy and Jim Carmichael Email Murty Young Mayogall Road, Gulladuff, Northern Ireland, BT45 8PD	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No

Planning History

Ref ID: LA09/2017/0117/F

Proposal: Proposed housing development consisting of 6 no. dwellings

Address: 37 Mayogall Road, Gulladuff, Maghera,

Decision:

Decision Date:

Ref ID: H/2012/0087/F

Proposal: Proposed two storey dwelling and double garage

Address: Adjacent to no. 37 Mayogall Road Gulladuff Magherafelt,

Decision:

Decision Date: 26.07.2012

Ref ID: H/1982/0124

Proposal: BUNGALOW

Address: MOYAGALL ROAD, GULLADUFF, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2003/1106/F

Proposal: Housing development.

Address: 39 Moyagall Road, Gulladuff.

Decision:

Decision Date:

Ref ID: H/2009/0599/O

Proposal: Site of 2-storey dwelling and garage

Address: To rear of no.39 Mayogall Road, Gulladuff

Decision:

Decision Date: 25.01.2010

Ref ID: H/2010/0302/RM

Proposal: Two storey dwelling and Garage

Address: To rear of No. 39 Mayogall Road, Gulladuff

Decision:

Decision Date: 17.08.2010

Ref ID: H/2007/0020/RM

Proposal: 38 Unit Housing scheme as approved under outline H/2003/0361/O

Address: South and adjoining 37 Mayogall Road, Gulladuff, Magherafelt

Decision:

Decision Date: 11.09.2008

Ref ID: H/2003/0361/O

Proposal: Site of housing development.

Address: Behind 7 - 39 Mayogall Road, Magherafelt.

Decision:

Decision Date:

Ref ID: LA09/2015/0203/NMC

Proposal: Private 2 Storey Dwelling and Double Single Storey Garage

Address: 25m NE of 39 Mayogall Road, Knockloughrim,

Decision: CR

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 02/3
Type: Site Layout or Block Plan
Status: Approved

Drawing No. 05/2
Type: Proposed Plans
Status: Approved

Drawing No. 01/1
Type: Site Location Plan
Status: Approved

Drawing No. 08
Type: Garage Plans
Status: Approved

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

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

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

Drawing No. 05
Type: Proposed Plans
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0567/F	Target Date:
Proposal: Extension to existing factory to provide additional production space and office accommodation, engineering works to re-contour ground levels and other ground works including retaining structure to provide serviced industrial and commercial sites. Construction of a new through road linking Coalisland Road to Carland Road and associated right hand turning lane including realignment of Rossmore Road.	Location: Lands at and between 48 Coalisland Road and 11 Cookstown Road Dungannon (Former Tyrone Brick Works Site) including lands at Rossmore Road and Cookstown Road.
Referral Route: Major Development Proposal Exception to planning policy in relation to expansion of business.	
Recommendation:	Approval
Applicant Name and Address: Maximus Crushing and Screening 48 Coalisland Road Dungannon BT71 6LA	Agent Name and Address: Clarman and Co. Unit 1 33 Dungannon Road Coalisland BT71 4HP
Executive Summary: The proposal involves the removal of buildings that have an industrial heritage interest but are not listed or historic monuments to allow the provision of a new road linking Carland Road to Coalisland Road to address traffic congestion problems at Thomas Street Roundabout. The existing factory will be extended which brings the development closer to some existing dwellings and part of the site is outside of the defined settlement limits for Dungannon. Overall the proposal will have benefits for Dungannon that outweigh the loss of buildings and increased impact on amenity of dwellings.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Content, attach conditions and in formatives
Statutory	DFI Roads - Enniskillen Office	Road would be adopted and maintained
Non Statutory	Environmental Health Mid Ulster Council	Conditions could mitigate against impact
Statutory	Rivers Agency	Advice details of attenuation
Non Statutory	DETI - Geological Survey (NI)	Advice – some mine shafts appear on database
Statutory	Historic Environment Division (HED)	Content with Listed Building, consider retaining chimneys and offices
Statutory	Health & Safety Executive for NI	No longer COMAH site
Non Statutory	Shared Environmental Services	Unlikely to have significant impact on European Species

Non Statutory	Invest NI	No Objection
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 Part of the development is outside the settlement limits for Dungannon, there is a new road to link Carland Road and Coalisland Road, expansion of existing factory close to existing residential development, loss of historic fabric (not listed buildings or historic monuments)		
Characteristics of the Site and Area This application site comprises the former Tyrone Brick Works site that sits between Carland Road and Coalisland Road, on the north side of Dungannon, it also includes some additional land on Rossmore Road and Carland Road. The site has substantial buildings on both sides of the site fronting onto Carland Road (approx. 13,000sqm) and Coalisland Road (approx.. 10500sqm). The buildings are generally large warehouse type structures with grey cladding to the wall and roofs. There are 2no brick chimneys within the site and on the Coalisland Road entrance there are a number of single storey brick built office buildings and a car parking area. The site is generally a flat valley with higher ground rising to the south and north and sits well below the level of the Coalisland Road. To the south is the grounds of Drumglass House, a listed building and DHSS site which has mature vegetation around it as well as private dwellings off a private lane that also has some commercial development along the boundary with the application site. To the north west is open countryside and gorse covered hillside and north east are private dwellings access off a private laneway, with Edendork GAA club to the rear of the them. On the opposite side of Carland Road is a quarry and there is an old railway bridge under the road at the south west corner of the site. On the opposite side of Coalisland Road are private dwellings, individual and in a private development as well as existing industrial lands to the north and a former filling station.		
Description of Proposal The proposal involves demolition of a number of industrial sheds and brick built offices on the Coalsiland Road side of the site, extensions to the existing factory on the Coalisland Road side of the site, ground works to level out the former quarry and storage yards including provision of retaining structures. The proposal also involves the provision of a new road linking Coalisland Road with Carland Road. The buildings to be demolished are 2 sheds with Belfast truss roofs, 1 shed which has a grey finished walls and low pitched roof and group of brick built offices at the entrance to the site. It is proposed to extend the factory to provide approx. 4700sqm of new production area and staff canteen facilities in 2 extensions: 23m x 88m x 8.9mhigh to the north and 22m x 128m x 12.75m to the south. These extensions will each have 3 roller doors facing north and south, they will have parapet walls facing Coalisland Road finished with grey wall panels and high level windows, the sides will have grey panels to the roof and upper walls and smooth render to the bottom of the walls.		

The proposal also involves a 2 storey extension to the front of the factory to provide approx. 970sqm of office space, a reception area, meeting and conference rooms, staff facilities and storages areas. This extension will have a mix of finishes with smooth render walls, clay brick walls and grey cladding in different panels, it also has large glazed areas to the drawing offices and conference room topped with cantilevered grey panelled roofs linked by a central flat roofed portion.

Parking facilities are proposed to be moved from the existing high level car park off Coalisland Road and what is the current storage area at the front of the factory, this will accommodate 104 car parking spaces.

The proposed road is approx.. 1km in length and is situated along the north part of the site and links from the existing factory entrance on the Coalisland Road to the Rossmore Road. The road will involve the removal of the existing car park on Coalisland Road to allow road widening to provide a slip road and new footpaths on the Coalisland Road side. The Carland Road is to be widened to provide a right hand turning lane, Rossmore Road is also to be widened and the new road will have priority over Rossmore Road. The road will provide a number of new access points along its length to facilitate future development of lands subject to a separate application, LA09/20171407/O for outline permission for industrial purposes. This application includes ground works to level out the former quarry by cutting and filling the ground, regrading of banks and provision of up to 6m high Terramesh retaining structures, (concrete grass walling system) along the south boundary of the site.

Planning Assessment of Policy and Other Material Considerations

This application is accompanied by an Environmental Statement which has been prepared in accordance with the Planning (Environmental Impact Assessment) Regulations (NI) 2015.

Planning History

M/1974/0438 – Mineral Extraction PP Granted 25 March 1975

M/1975/0375 – Extension to Existing Building, Modernisation of Existing Clay Brick Factory PP Granted 24 November 1975

M/1976/0402 – Replacement Factory – PP Granted 11May 1977

Members are advised that 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.

Policy documents being considered:

Dungannon & South Tyrone Area Plan 2010

Strategic Planning Statement for Northern Ireland (SPPS)

A Planning Strategy for Rural Northern Ireland

PPS2 – Planning & Natural Heritage

PPS3 – Access, Movement & Parking

PPS4 – Planning & Economic Development

PPS6 – Planning, Archaeology and the Built Heritage

Dungannon & South Tyrone Area Plan Planning identifies part of the site as being existing industry within the settlement limits for Dungannon. This relates to the area where the existing factory on the Coalisland Road site is located and includes the extensions to it. Policies SETT1 and IND1 of the Plan indicate that development will normally be granted provided a number of criteria set out in SETT1 are met. These criteria are similar to those in PED1 and PED9 of PPS4 so, while the extensions to the factory may be acceptable if they meet the criteria in PED9, the overall development cannot accord with the Plan Policies as it sits outside the settlement limits.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) has a guiding principle that sustainable development should be permitted unless it causes demonstrable harm to areas of acknowledged importance, particular if it conflicts with an up to date area plan. Members will be aware of the issues around the supply of industrial land in Dungannon and while the Dungannon & South Tyrone Area Plan 2010 has identified land for proposed industrial development, this land has not been brought forward and there are issues with that land coming forward. As such members will be aware of the lack of industrial land to accommodate the level of industry in the area. While the DSTAP is the extant plan, it is not up to date and the settlement limit at this part of Dungannon does not take account of the current land condition which is not of any particular interest or importance. The SPPS also asks Councils to improve health and wellbeing, support economic growth and safeguard residential and working environs.

The proposed extensions to the factory are of a high quality modern design, which I consider will improve the appearance of the existing building on the site as they enclose it from the main views. The taller extension is located on the south part of the existing factory, it a significant depth below the level of the Coalisland Road and the surrounding lands, it is also well separated from existing residential accommodation and this, paired with the lack of any windows will ensure there is limited impact on residential amenity by virtue of overlooking or overshadowing. The extension to the north side and to the front of the existing factory are lower in height than the existing building and the closest property to them is 45m to the north (56A Coalisland Road) with a hedge between them. I do not consider there will be any unacceptable overlooking or overshadowing of the existing residential properties from the proposed extensions.

Environmental Health have considered noise and odour assessments that have been provided in support of the proposed development, in considering these it has been recognised there are noise sensitive properties close by which will have their amenity impacted by the development. The reports have identified mitigation by way of design and materials of the finished buildings as well as operational procedures such as closing doors and ensuring any external testing is carried out away from the houses. EHO have advised these mitigation measures are acceptable and will limit the impact. I consider it is necessary to condition these measures are put in place to protect the amenity of the residents living close by.

Parking for the site is being formalised with 104 car parking spaces being provided, in place of the existing 33 spaces at the higher level car park on Coalisland Road. The parking standards guidance indicates that the parking for this development would equate to 142 spaces for the proposed extensions, however it does indicate that each site should be assessed on the basis of the site specifics. A Transport Assessment for the extension has indicated there will be 40 more employees within the building as this factory is for the manufacture of large machines that, by their nature take up a lot of space during assembly. The TA also identifies the alternative links to

the site via the existing footway network and public transport. Given how accessible the site is by alternative modes of transport, other than private car, I consider the proposed parking area, which provides 71 additional spaces for an additional workforce of 40 staff, provides adequate parking for the proposed factory extensions. The proposed development will screen off storage areas on the north side of the factory from public view and a landscaping scheme, once planted will improve the overall appearance of the quality of the area and improve the habitat for biodiversity purposes. The proposed factory extensions do not directly affect any natural or built heritage interests and they are proposed in an area that already is hard surfaced, therefore the extension will not create any additional storm water runoff. In view of all of the above I consider the extensions to the factory are acceptable and meet with PED1 and PED9.

Members should note this application also involves expansion of the factory site into the countryside, levelling out the old quarry to provide a level area and provision of retaining structures. Part of the area is for possible future industrial development, which is subject to separate consideration under application LA09/2017/4107/O. The purpose of the settlement limit is to promote and contain new development and maintain the clear distinction between the countryside and the built up area. Members should note policies in PPS4 allows for the expansion of existing industrial development in the countryside and for major industrial developments in the countryside. Where there is a proposed major economic development it is preferred this should be located at the edge of an existing town. There is no specific policy which would allow this proposal, for the expansion of an existing industrial development which lies within the settlement limit to expand into the countryside. Indeed Policy CTY15 of PPS21 would discourage development on the periphery of towns and settlements as it could mar the distinction between the town and the countryside. This would suggest this part of the development should be refused. However, M/1975/0438 granted planning permission for a quarry, this use has ceased as the minerals have been extracted. The site therefore falls under the definition of an Old Minerals Permission and I am unaware of a restoration plan for the site. New quarry development applications have conditions imposed that require the provision of a restoration plan and these are conditioned. The planning permission for this site did attach a condition that in the event of mining ceasing the waste materials on the site would be used to fill any areas excavated below ground level and reinstated to the satisfaction of the Planning Authority. This proposal to regrade the site, is broadly in accordance with that condition and I consider the levelling out of the land and provision of retaining structures, as proposed, will improve the overall appearance of the area.

The extension to the factory site is not in an area that floods but it will increase the overall hard standing area and could therefore impact on flooding elsewhere. The applicant has committed to provide attenuation for the storm water from the site by way of oversized pipes and hydrobrake, and I consider it is appropriate to agree the details of these post decision but before the use of the yard commences. The yard extension and levelled area are not in any areas that have any recognised archaeological or natural heritage issues and it is proposed to provide landscaping around the site to screen the storage areas, I consider this will also promote biodiversity.

In view of the planning history on the site, the current condition of the land and lack of any other potential to have the site restored, I consider it is appropriate to allow this site to be levelled, the yard area of the factory extended and retaining structures provided as proposed.

Link Road

Members should be aware that this application did not have a link road as part of the original proposal, however, through negotiations with the planning office, roads engineer and the applicant, a link road is being proposed that joins Coalisland Road to Carland Road. This has been subject to neighbour notification and advertisement in the local press. The proposed road will result in the loss of existing Industrial Heritage through the removal of existing offices and there is potential for an increase in noise and exhaust fumes from vehicles using the new road, particularly for 6 of the properties immediately to the north off the site. The reports submitted with the application have suggested there is a limited increase in traffic, as it takes account of the traffic that currently uses the Coalisland Road in its considerations. EHO have assessed this and have not raised any concerns in terms of the impacts of the proposed road on the existing properties. The offices, on the Coalisland Road entrance are single storey brick built, they are not listed buildings. HED have identified they have industrial heritage interest and would like to see them retained, however they would not insist on them being retained and certainly do not consider them to be so significant as to prevent this overall development, given the overall benefits this new road could bring in terms of relief of congestion at Thomas Street Roundabout. Members should note there are 2 brick chimneys on the site, at both sides of the site, which in my opinion, provide a significant historical link to the site's history. I consider it is appropriate to condition the retention of these chimneys.

Planning policy in relation to Protected Routes is to severely restrict any new accesses onto these routes, this is to ensure the free flow of traffic. His proposal does not involve a new access, it involves the improvements and realignment of an existing access. Roads Engineers have considered the design of the access and are content that it is safe, though it will require the stopping up of Rossmore Road, which is a process separate from the Planning Permission. Members are advised that objections to this process could result in delays to the delivery of the road, however I do not consider the road is required to allow the expansion to the factory or works for the restoration of the existing site as there is no information to suggest this element of the scheme would result in an increase in traffic on Thomas Street roundabout.

Members will be aware of the need for investment in the infrastructure around Dungannon and the lack of public funding coming forward. In this case the developer has indicated they are willing to provide a link road between Coalisland Road and Carland Road. Roads Engineers have advised this will improve the overall traffic situation in Dungannon by upgrading the access from this site onto Coalisland Road, reduce the traffic using Thomas Street roundabout which will have a knock on positive impact on the traffic progression through Thomas Street Roundabout as it will improve the flow of traffic, reduce waiting and queuing times; improve air quality at Thomas Street Roundabout and provide benefits to the economy which freer moving traffic will generate. The proposed road will create a new hard surfaced area that has the potential to impact on flooding, it is proposed to deal with this through attenuation on the site. No details of this attenuation have been provided, however I consider a condition requiring submission of and agreement of these details prior to the construction of the road can deal with this and is necessary.

In summing up I consider the proposed extensions to the factory and the provision of the offices is in accordance with the planning policy for industrial development, the levelling out of the old quarry is generally in accordance with a condition of the original minerals permission, the extension to the yard extends into the countryside but is in an area that has already been degraded and as such will not mar the distinction between the town and open countryside, the road may affect amenity but will provide significant overall benefits for the town. In view of all these I consider the development should be approved with conditions.

Neighbour Notification Checked	Yes
Summary of Recommendation: Approve with conditions.	
Conditions: <ol style="list-style-type: none"> 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 operations commencing within the factory extensions or occupation of the offices hereby approved, the vehicular access onto Coalisland Road, shall be provided in accordance with the details on drawing No 32 Rev1 bearing the stamp dated 01 OCT 2018. 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. 3. Prior to operations commencing within the factory extensions or occupation of the offices hereby approved the parking and turning areas as shown on drawing no 04 Rev xx shall be provided and permanently retained for parking and turning purposes. REASON: To ensure that adequate provision has been made for parking, servicing and traffic circulation within the site. 4. Prior to the link road hereby approved becoming operational, <ol style="list-style-type: none"> i) the access improvements onto Coalisland Road and detailed on drawing no 32 Rev 1 bearing the stamp dated 01 OCT 2018, ii) realignment of Rossmore Road, provision of right hand turning lane and alterations to Carland Road as detailed on drawing No 35 bearing the stamp dated 23 AUG 2018 shall be provided as detailed and shall be permanently retained. 5. Within the first available planting season following the occupation of either the offices or the extension to the factory hereby approved, the yard area shall be fenced off as detailed on drawing No 25 Rev 1 bearing the stamp dated 01 OCT 2018 and all landscaping shall be carried out as detailed. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species. . Reason: To ensure the provision of a high standard of landscape ad for the purposes of bio-diversity. 6. All external doors to the proposed factory extensions shall remained closed at all times when the workshops are operational, except for the purposes or access or egress. Reason: In the interests of residential amenity. 	

7. There shall be no deliveries to the site and/or external activity outside the hours of 07:00 hours and 18:30 hours Monday to Friday, 08:00hours to 13:00 hours on Saturdays and no site activity on Sundays.

Reason: In the interests of residential amenity.

8. The doors to the proposed factory extensions shall be constructed and maintained at all times to provide a sound reduction Rw of at least 30dB as detailed in the Noise Impact Assessment Report dated 20th June 2018

Reason: In the interests of residential amenity.

9. The walls to the proposed factory extensions shall be constructed and maintained at all times to provide a sound reduction Rw of at least 25dB as detailed in the Noise Impact Assessment Report dated 20th June 2018 and drawing No 02-02 dated Jan 2017.

Reason: In the interests of residential amenity.

10. The roof to the proposed factory extensions shall be constructed and maintained at all times to provide a sound reduction Rw of at least 25dB as detailed in the Noise Impact Assessment Report dated 20th June 2018 and drawing No 02-02 dated Jan 2017.

Reason: In the interests of residential amenity

11. Within 4 weeks of a written request by the Planning Department, following a reasonable noise complaint the site operator shall, at their expense, employ a suitably qualified and competent person, to assess the level of noise immissions from the site and road at the complainants' property following the procedures in line with appropriate noise measurement guidance. Details of the noise monitoring survey shall be submitted to the Planning Department for written approval prior to any monitoring commencing.

Reason: In the interests of residential amenity

12. Should a complaint be justified, the operations causing the nuisance shall cease until such times as mitigation measures have been put in place to remedy the nuisance.

Reason: In the interests of residential amenity

13. The existing chimneys identified A and B on drawing No 25 Rev 1 bearing the stamp dated 01 OCT 2018 shall be permanently retained.

Reason: To preserve industrial heritage on the site.

14. The offices hereby approved shall only be used for ancillary purposes in association with the existing factory and shall not be used for any other purpose.

Reason: To ensure road safety and to accord with planning policy in relation to office development.

Private Streets Order

15. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department has determined 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 Drawings No32 Rev 1, 33, 34 & 35 bearing the date stamp 01 OCT 2018.

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

Informatives:

1. When making this decision the Council has taken into consideration environmental information within the terms of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.
2. The developer should satisfy themselves that the Geotechnical Certification Process has adequately addressed
3. The developer's attention is drawn to the comments received from Northern Ireland Environment Agency, Rivers Agency, Historic Environment Division, Environmental Health and Roads. These are available to download from the planning portal.
4. This permission does not grant any use on the lands outside of the yard for the factory.

Signature(s)

Date:

ANNEX	
Date Valid	26th April 2017
Date First Advertised	11th May 2017
Date Last Advertised	6th September 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier, 28 Coalisland Road, Killylack Glebe, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 30 Coalisland Road Drumcoo Drumcoo The Owner/Occupier, 32 Coalisland Road Lurganboy Drumcoo The Owner/Occupier, 32A Coalisland Road, Killybracky, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 35 Coalisland Road Killybracky Drumcoo The Owner/Occupier, 39 Coalisland Road Killybracky Drumcoo The Owner/Occupier, 43 Coalisland Road Killybracky Drumcoo The Owner/Occupier, 45 Coalisland Road Killybracky Drumcoo The Owner/Occupier, 50 Coalisland Road Killybracky Drumcoo The Owner/Occupier, 52 Coalisland Road, Killybracky, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 52A Coalisland Road, Killybracky, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 54 Coalisland Road, Killybracky, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 56 Coalisland Road, Rossmore, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 56A Coalisland Road, Rossmore, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 58 Coalisland Road, Killybracky, Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, 61 Coalisland Road Killybracky Drumcoo The Owner/Occupier, 65 Coalisland Road Killybracky Drumcoo The Owner/Occupier, Balfor 32C Coalisland Road,Lurganboy,Drumcoo,Dungannon,Tyrone,BT71 6LA,	

The Owner/Occupier, Closed Dimensions 32B Coalisland Road,Lurganboy,Drumcoo,Dungannon,Tyrone,BT71 6LA, The Owner/Occupier, Oakridge S.E.C. 20B Coalisland Road Drumcoo The Owner/Occupier, Oaks Road Service Station, 33 Coalisland Road,Lurganboy,Drumcoo,Dungannon,Tyrone,BT71 6LA,	
Date of Last Neighbour Notification	28th August 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1155/PAN Proposal: Recontouring site to form required levels. Redevelopment of existing brickyard site to provide industrial and warehousing serviced sites and association parking. Temporary car park for holding of vehicles. extension and alterations to existing factory new site road with right turning lane and alterations to existing public highway Address: Old Brick Site, 48 Coalisland Road, Dungannon, Decision: PANACC Decision Date: Ref ID: LA09/2017/0567/F Proposal: Extension to existing factory to provide additional production space and office accommodation, engineering works to re-contour ground levels and other ground works including retaining structure to provide serviced industrial and commercial sites. Construction of a new service road and associated right hand turning lane including realignment of Rossmore Road. Address: Lands at and between 48 Coalisland Road and 11 Cookstown Road, Dungannon (Former Tyrone Brick Works Site) including lands at Rossmore Road and Cookstown Road., Decision: Decision Date: Ref ID: LA09/2016/0807/PAD Proposal: Industrial Estate Address: Coalisland Road, Cookstown Road, Dungannon, Decision: Decision Date:	

Ref ID: M/1974/0438
Proposal: MINERAL EXTRACTION
Address: ROSSMORE, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1991/0500
Proposal: Extension to dwelling
Address: TUDOR OAKS COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1986/0072
Proposal: DWELLING AND GARAGE
Address: KILLYLACK GLEBE, COALISLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1994/0573
Proposal: Extension to Dwelling
Address: TUDOR OAKS COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1996/0509
Proposal: Extension to Dwelling and Erection of Domestic Garage
Address: TUDOR OAKS COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1989/0150
Proposal: Extension to Workshop (Workshop to be extended was approved in 1988 but has not yet been built)
Address: BESIDE 31 COALISLAND ROAD LURGABOY DUNGANNON
Decision:
Decision Date:

Ref ID: M/1987/0671
Proposal: WORKSHOP FOR FABRICATION OF MOBILE CLASSROOM
Address: ADJACENT TO 31 COALISLAND ROAD, LURGABOY, DUNGANNON

Decision:
Decision Date:

Ref ID: M/1978/0629
Proposal: PRIVATE DWELLING HOUSE
Address: COALISLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/2009/0933/F
Proposal: Proposed dwelling and garage
Address: Adjacent to 30 Coalisland Road,Dungannon.
Decision:
Decision Date: 11.02.2010

Ref ID: M/1993/0185
Proposal: Change of use from store to showroom
Address: BUILDING TO REAR OF 32 COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1977/0300
Proposal: REMOVAL OF 2 NO PETROL TANKS AND INSTALLATION OF 1 NO 8,000 GALLON TANK
Address: 33 COALISLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1990/0383
Proposal: BP Oil Re-Imaging of forecourt
Address: OAKS ROAD, DUNGANNON, CO TYRONE.
Decision:
Decision Date:

Ref ID: M/1999/0421
Proposal: Store Extension, Parking and forming of new Public Access
Address: 32 COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/2003/1559/Q

Proposal: Part office/part residential holistic health centre facility

Address: 32 Coalisland Road Dungannon

Decision:

Decision Date:

Ref ID: M/1978/0227

Proposal: CHANGE OF USE FROM DWELLING TO OFFICE ACCOMMODATION

Address: `SUNNYSIDE', COALISLAND ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1993/0011

Proposal: Change of use from offices to Dwelling

Address: "SUNNYSIDE", 32 COALISLAND ROAD, DUNGANNON.

Decision:

Decision Date:

Ref ID: M/2004/0308/LDP

Proposal: the building will be used as part office & part residential holistic health facility

Address: no. 32A Coalisland Road,Dungannon

Decision:

Decision Date:

Ref ID: M/1990/0079

Proposal: Office

Address: TYRONE BRICK PLANT 4 COALISLAND ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/1976/0402

Proposal: REPLACEMENT FACTORY

Address: PLANT NO. 4., COALISLAND ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/0114

Proposal: ERECTION OF CLAY STORE AND WORKSHOPS

Address: PLANT NO 4 COALISLAND ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1977/0095

Proposal: ELECTRICITY SUBSTATION

Address: KILLYLACK, GLEBE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2002/0966/F

Proposal: Proposed Extensiion to Existing Dwelling

Address: 51 Coalisland Road, Dungannon

Decision:

Decision Date: 17.02.2003

Ref ID: M/2000/0528

Proposal: Dwelling and garage

Address: Site 1 20m west of 50 Coalisland Road Dungannon

Decision:

Decision Date: 16.05.2000

Ref ID: M/1975/0375

Proposal: EXTENSION TO EXISTING BUILDING, MODERNISATION OF EXISTING CLAY BRICK

Address: CARLAND ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2003/0432/F

Proposal: The stocking of paving building materials for sale to the public.

Address: Tyrone Brick Ltd, Plant 5 Carland Road, Dungannon

Decision:

Decision Date: 15.11.2003

Ref ID: M/1994/6061

Proposal: Additional Complex Drumglass Hospital, Dungannon.

Address: Drumglass Hospital,

Decision:

Decision Date:

Ref ID: M/1974/0573

Proposal: ERECTION OF AMBULANCE REFUELLING STATION

Address: DRUMGLASS HOSPITAL, COOKSTOWN ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1995/6005
Proposal: Dwelling 84 Coalisland Road, Dungannon
Address: 84 Coalisland Road, Dungannon
Decision:
Decision Date:

Ref ID: M/1976/052001
Proposal: COMMUNITY HOME
Address: DUNGANNON
Decision:
Decision Date:

Ref ID: M/1976/0520
Proposal: CHILDREN'S HOME
Address: COALISLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1976/057701
Proposal: PLAYING FIELD AND CHILDREN'S PLAY AREA
Address: DRUMCOO, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1993/0670
Proposal: Erection of 6 No Floodlights.
Address: DRUMCOO PLAYING FIELDS, OAKS ROAD, DUNGANNON.
Decision:
Decision Date:

Ref ID: M/1990/0182
Proposal: 2 X 12 Ton Propane Storage Vessels
Address: PLANT 5 (TYRONE BRICK), CARLAND ROAD, DUNGANNON.
Decision:
Decision Date:

Ref ID: M/1998/0186

Proposal: Installation of 4 (Four) No. 12 Tonne Gas Vessels
Address: REDLAND TILES AND BRICK LTD 48 COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1977/0027
Proposal: ERECTION OF TWO BUILDINGS, ONE FOR MAUNFACTURE OF SEPCIAL BRICKS, OTHER
Address: CARLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1989/0102
Proposal: Three 3.15 ton LPG Tanks
Address: TYRONE BRICK PLANT 5 CARLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1984/0471
Proposal: ERECTION OF LP GAS TANKS
Address: PLANT NO 5, CARLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1976/0577
Proposal: PLAYING FIELDS AND PLAY AREA
Address: DRUMCOO, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1978/0298
Proposal: IMPROVEMENTS TO DWELLING
Address: 26 FERRY ROAD, DERRLAUGHAN, COALISLAND
Decision:
Decision Date:

Ref ID: M/1998/0430
Proposal: Site for Dwelling
Address: ADJACENT 56 COALISLAND ROAD ROSSMORE DUNGANNON
Decision:
Decision Date:

Ref ID: M/1998/0430B
Proposal: Proposed Dwelling
Address: ADJACENT TO 56 COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/2001/1109/RM
Proposal: Proposed dwelling and garage
Address: Site adjacent to 56 Rossmore, Coalisland Road, Dungannon
Decision:
Decision Date: 28.11.2001

Ref ID: M/2000/1156/O
Proposal: Site for dwelling
Address: Land adjacent to No. 56 Rossmore, Coalisland Road, Dungannon
Decision:
Decision Date: 04.09.2001

Ref ID: M/1987/0278
Proposal: DWELLING
Address: COALISLAND ROAD, ROSSMORE, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1976/0628
Proposal: 33KV UNEARTHED SPUR, MV U/G GABLE
Address: LURGABOY, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1981/039502
Proposal: ERECTION OF DWELLING
Address: ROSSMORE, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1981/039501
Proposal: DWELLING
Address: ROSSMORE, DUNGANNON
Decision:

Decision Date:

Ref ID: M/1981/0395

Proposal: DWELLING

Address: ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2001/0087/O

Proposal: Dwelling House & Garage

Address: Site 1 20 M West of 50 Coalisland Road, Dungannon

Decision:

Decision Date: 28.11.2001

Ref ID: M/1981/0371

Proposal: DWELLING

Address: KILLYBRACKY, DUNGANNON

Decision:

Decision Date:

Ref ID: M/2002/1294/RM

Proposal: Proposed dwelling

Address: 20 Metres West of 50 Coalisland Road, Dungannon

Decision:

Decision Date: 23.01.2003

Ref ID: M/1997/0637B

Proposal: Dwelling

Address: NORTH OF 50 COALISLAND ROAD EDENDORK

Decision:

Decision Date:

Ref ID: M/2000/0529/O

Proposal: Dwelling and garage

Address: Site 2 Immediately west of 50 & 58 Coalisland Road Dungannon

Decision:

Decision Date: 16.05.2000

Ref ID: M/2001/0088/O

Proposal: Dwelling & Garage

Address: Site 2 Immediately West of 50 & 58 Coalisland Road, Dungannon

Decision:
Decision Date: 28.11.2001

Ref ID: M/1978/0015
Proposal: ERECTION OF HUT FOR GATE KEEPER
Address: PLANT 4, COALISLAND ROAD, DUNGANNON
Decision:
Decision Date:

Ref ID: M/1988/0827
Proposal: HV Alterations
Address: KILLYBRACKY DUNGANNON
Decision:
Decision Date:

Ref ID: M/2001/0856/F
Proposal: Erection of replacement dwelling.
Address: 53 Coalisland Road, Dungannon.
Decision:
Decision Date: 15.09.2001

Ref ID: M/2003/0526/F
Proposal: Proposed replacement dwelling
Address: 51 Coalisland Road, Killybrackey, Dungannon
Decision:
Decision Date: 17.06.2003

Ref ID: M/1992/0584
Proposal: Site for Dwelling
Address: ADJACENT TO 51 COALISLAND ROAD DUNGANNON
Decision:
Decision Date:

Ref ID: M/1974/0410
Proposal: PETROL FILLING STATION STORE
Address: UPPER ANNAGHER, COALISLAND
Decision:
Decision Date:

Summary of Consultee Responses

DFI Roads – access to be improved, new orad will be adopted and Rossmore Road to be abandoned.

Environmental Health – conditions to be attached to mitigate impacts

HSENI – no longer COMAH site, gas tanks removed, comments no longer necessary

SES – Assessment carried out under Regulation 43 of Habitats Regs, proposal not likely to have a significant effect on European Sites

DFI Rivers – Drainage Assessment indicates attenuation, no details on drawings

Historic Environment Division – consider retaining chimneys, gatelodge and offices and display samples of brick through site to reflect history, no concerns re listed building (Drumglass House), if not retained then archaeological mitigation needed

NIEA –

- Land Soil and Air, no concerns PPC Cert surrendered, attached contaminated lands conditions
- NED, potential to impact on bats, badgers and priority habitats, content with building being retained on Carland Road side requests bat survey if this is to be demolished, lighting scheme and landscaping plan acceptable

GSNI – coal shafts within the site, records may not be up to date

INI – no objections

Drawing Numbers and Title

Drawing No. 01 Rev 1

Type:

Status:

Drawing No. 02

Type:

Status: Submitted

Drawing No. 05 Rev 3

Type:

Status: Submitted

Drawing No. 06 Rev 1

Type:

Status: Submitted

Drawing No. 12 Rev 1

Type:

Status: Submitted

Drawing No. 13

Type:

Status: Submitted

Drawing No. 19

Type:

Status: Submitted

Drawing No. 21

Type:

Status: Submitted

Drawing No. 22

Type:

Status: Submitted

Drawing No. 23

Type:

Status: Submitted

Drawing No. 24

Type:

Status: Submitted

Drawing No. 25 Rev 1

Type:

Status: Submitted

Drawing No. 29

Type:

Status: Submitted

Drawing No. 32 Rev 1

Type:

Status: Submitted

Drawing No. 33

Type:

Status: Submitted

Drawing No. 34

Type:

Status: Submitted

Drawing No. 35

Type:

Status: Submitted

Drawing No. 36

Type:

Status: Submitted

Drawing No. 37

Type:

Status: Submitted

Drawing No. 38

Type:

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0771/O	Target Date:
Proposal: Proposed dwelling and garage	Location: Approx 60m S.W.of 13 Barrack Road Ballymaguigan Magherafelt
Referral Route: This application is being presented to Committee as it is being recommended for refusal	
Recommendation:	REFUSE
Applicant Name and Address: Joe Crozier 13 Barrack Road Ballymaguigan Magherafelt	Agent Name and Address: CMI Planners Ltd Unit C5 The Rainey Centre 80-82 Rainey Street Magherafelt BT45 5AG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

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

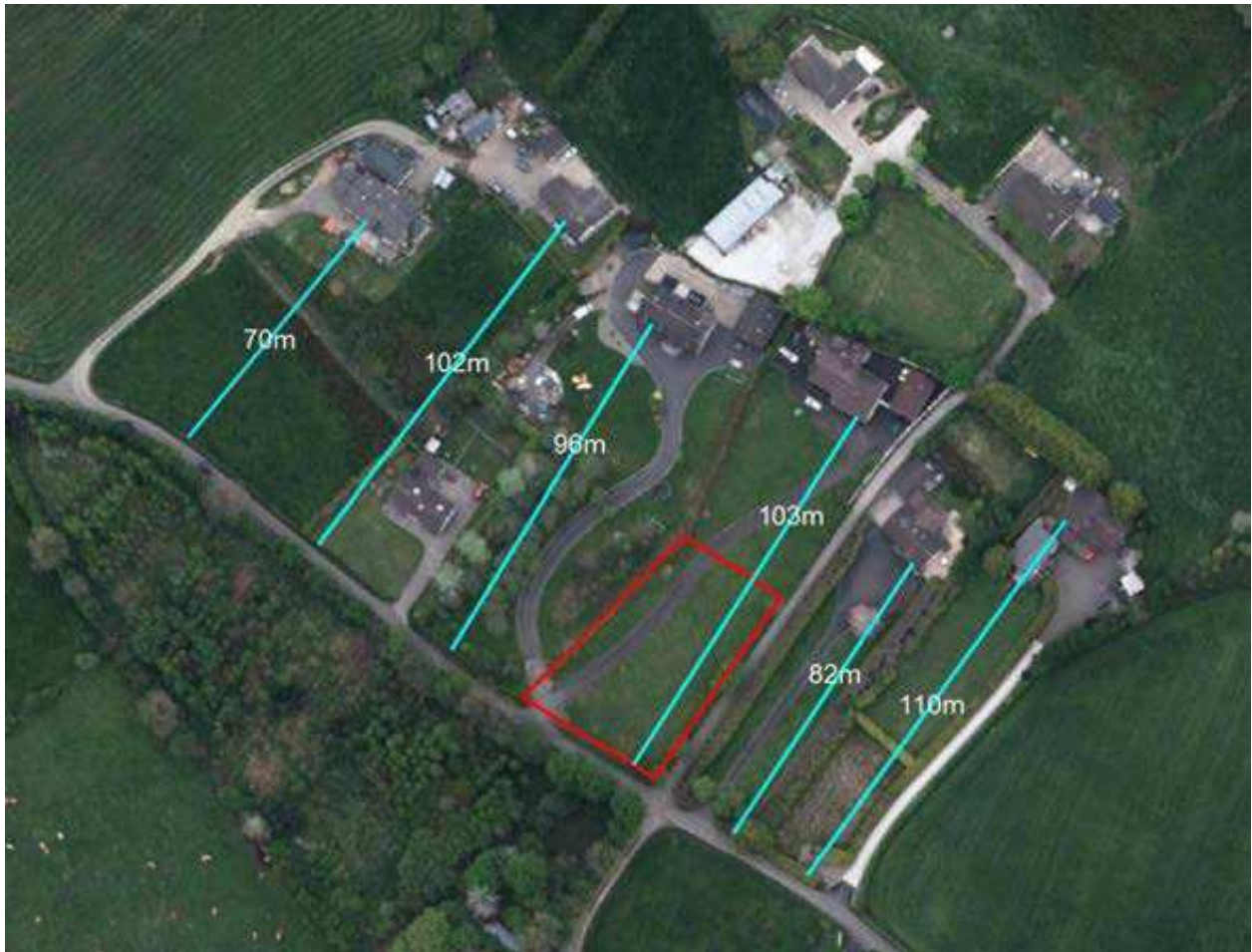
No objections have been received in respect of this application.

Description of the Proposal

The proposal is an outline application for a single dwelling located in the front garden area of an existing large two storey detached dwelling which is set back approximately 110m from the public road.

Characteristics of the site and area

The site comprises half of the front garden area of an existing dwelling which is set back off the public road by 110m. The site is located to the road frontage side of the garden. The existing dwelling at no.13 is located in a row of 6 dwellings which are all set back off the Barrack Road by between 70m and 110m. No. 13 and the dwelling on each side, ie. no's 11 & 13a have formal front gardens extending to the public road while no's 15, 19 and 19c have front garden areas which are set back from the road frontage. There is one dwelling, no.19a which occupies a road frontage position and this is located to the front of no.13a. No.19a was approved under planning application H/1983/0104.



The existing access to the site is paired with that of no.13a. The site is bounded by 1.0m high laurel hedge to the rear of a 2.0m wide grass verge with a laneway along the eastern boundary and leading to two dwellings, no's 17 and 17a and associated out-buildings, which are sited to the rear of no's.13 and 13a.

Due to the existing mature boundary vegetation along the Barrack Road the critical views of the site are restricted to along the site frontage on approach from the south east. On approach from the north west there are critical views of the site from the front of no.13a. However, there are

also critical views of the site when travelling along the laneway immediately adjacent to the south eastern boundary of the site. This laneway leads to two private dwellings at no's 17 and 17a. The general character of the area is one of dwellings set back off the public road either with long front gardens or being set back off the public road and being accessed via laneways.

Relevant planning history

H/1985/0043 – Site for bungalow and garage – approved 25.03.1985

H/1988/0127 – Dwelling and garage – approved 09.07.1988

H/1993/0250 – Access and driveway – Approved 21.09.1993

Planning Assessment of Policy and Other Material Considerations

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

Whilst the application does not contain any justification for the proposed development, nor indeed does it indicate what policy it is to be assessed under, the agent provided an appeal statement which they felt was a similar situation. That appeal was considered under Policies CTY 2a and CTY 8. Therefore, this application will be assessed under these same policies.

PPS 21 – sustainable development in the countryside

The proposal falls to be considered under Policy CTY 8. In order to assess whether or not an infill opportunity exists, it is first necessary to identify if a substantial and continuously built up frontage, containing a gap, is present. Secondly, an assessment of the gap is required in order to ascertain whether it is 'small' in the context of the policy. Although it does not purport to provide an exhaustive list of circumstances, CTY 8 states that a substantial and built up frontage "includes a line of 3 or more buildings along a road frontage without accompanying development to the rear".

As the proposed site is located in the front garden area of no.13 with long formal gardens to either side, it is not considered to be within a substantial and continuously built up frontage.

Therefore it is not considered to be a gap site and is contrary to policy CTY 8.

While the site fails to satisfy the requirements of CTY 8, it also has to be considered under other policies ie. CTY 13 – Integration and CTY 14 – rural character.

CTY 13 – Integration

The proposed site does not require the removal of any part of the site frontage in order to provide the necessary visibility splays. A dwelling on the site would be viewed against the existing hedgerows and would achieve an acceptable degree of integration.

CTY 14 – Rural Character

It is acknowledged that there are limited critical views of the site on approach from the south east, however, there is also a public interest along the laneway to the immediate south east of the site. This laneway leads to two dwellings and from that laneway any dwelling on this site would be read against the existing dwellings at no's 13 and 13a with no's 19 in the background while no.17 is seen sitting on a ridge to the rear of no.13a. A dwelling on this site would contribute to a build-up of development and would result in the erosion of rural character.

A dwelling on this site would create a dwelling on a road frontage site with existing dwellings set to the rear. This is not a typical form of development which is characteristic of this area and would therefore result in a suburban form of development which does not respect the traditional pattern of development exhibited in the area. Therefore the proposal is considered to be contrary to Policy CTY 14.

In support of the application, additional information was submitted in the form of a planning appeal (Ref: 2015/A0160) which it was claimed was on a par with the proposed site. However, on considering that appeal it is evident that the appeal site was located within a gap site as the proposed dwelling was within an existing ribbon of road frontage development consisting of seven dwellings. It therefore had existing buildings on both sides and it was sited to the rear of the existing building line created by the buildings on either side. This proposed site is distinctly different from that appeal as it is set in front of the existing buildings which form the ribbon of development and therefore there is no gap. The 'gap' is already being filled by the dwelling to the rear, ie no.13.

Consultations

Transport NI, Environmental Health and NI Water have all advised that they have no issues of concern with the proposed site.

Recommendation

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

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reasons listed below:-

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 and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not considered to be a small gap site within a substantial and continuously built up frontage and it does not respect the existing settlement pattern.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted; result in a suburban style build-up of development when viewed with existing and approved buildings; not respect the traditional pattern of settlement exhibited in that area; and would therefore result in a detrimental change to erode the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	5th June 2017
Date First Advertised	22nd June 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 11 Barrack Road Ballymaguigan Magherafelt The Owner/Occupier, 13A Barrack Road Ballymaguigan Magherafelt The Owner/Occupier, 17 Barrack Road, Magherafelt, Londonderry, BT45 6LY The Owner/Occupier, 17a , Barrack Road, Magherafelt, Londonderry, BT45 6LY	
Date of Last Neighbour Notification	13th November 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/0771/O Proposal: Proposed dwelling and garage Address: Approx 60m S.W.of 13 Barrack Road, Ballymaguigan, Magherafelt, Decision: Decision Date: Ref ID: H/1988/0127 Proposal: DWELLING WITH GARAGE Address: ADJ TO NO 17 BARRACK ROAD BALLYMAGUIGAN MAGHERAFELT Decision: Decision Date: Ref ID: H/1985/0043 Proposal: SITE OF BUNGALOW AND GARAGE Address: BARRACK ROAD, BALLYMAGUIGAN, MAGHERAFELT Decision: Decision Date: Ref ID: H/1988/0388 Proposal: BUNGALOW	

Address: BARRACK ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1997/0368

Proposal: EXTENSION TO DWELLING

Address: 17 BARRACK ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2006/0551/F

Proposal: Proposed single storey kitchen extension & alterations to existing dwelling house including domestic store

Address: 13 Barrack Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 23.11.2006

Ref ID: H/1993/0250

Proposal: ACCESS AND DRIVEWAY

Address: 13 BARRACK ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1995/0264

Proposal: SITE OF DWELLING AND GARAGE

Address: BESIDE 13 BARRACK ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1996/0468

Proposal: DWELLING AND GARAGE

Address: BESIDE 13 BARRACK ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1992/6117

Proposal: SITE OF DWELLING AND GARAGE BARRACK RD BALLYRONAN

Address: BARRACK RD

Decision:

Decision Date:

Summary of Consultee Responses

All consultees responded positively

Drawing Numbers and Title
Drawing No. 01 Type: Site Location Plan Status: Submitted Drawing No. 02 Type: Housing Concept Plan Status: Submitted
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1039/F	Target Date:
Proposal: Provision of an exit from new car park to rear of existing church and proposed church hall complex	Location: Land to the north of Lecumpher Presbyterian Church 106 Desertmartin Road Moneymore Magherafelt
Referral Route: access onto main traffic route contrary to DFI recommendation.	
Recommendation: Approval	
Applicant Name and Address: The Kirk Session Lecumpher Presbyterian Church 106 Desertmartin Road Moneymore Magherafelt	Agent Name and Address: Sam Hudson 21 Main Street Desertmartin Magherafelt BT45 5LW
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	Historic Environment Division (HED)	Content

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 - PPS3 exception to MTR policy.	
Characteristics of the Site and Area. Existing listed church, car park and new hall extension currently being constructed. Parking located to south of church grounds with a number of individual vehicular access points off the Main Desertmartin Road (Protected Route.)	
Description of Proposal Provision of an exit from new car park to rear of existing church and proposed church hall complex.	
Planning Assessment of Policy and Other Material Considerations MAP SPPS PPS6 PPS3 PPS21 This proposal has evolved to propose the closing up of the southern access point to the main car park in substitution for a new Exit only point to the opposite side of the Church along its northern boundary requiring a narrow part of the agricultural field located on this side of the Church. The case has been made that this offers a much more usable arrangement for what is stated as being an increasing congregation whilst also considering the new church hall being erected to the rear / side of the church, recently approved. Current Policy Provision within PPS3 in relation to protected routes (outside) settlements sets out the following requirements: 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.

For the purposes of this proposal I will set out the Councils rationale for treating the application under criteria (d) above.

As this proposal requires a new, in this instance exit only point, onto the Protected route it is on the face of it contrary to policy. During a site meeting it occurred to me that there appeared to be a number of access points existing into the car park directly off the main road (3 in total). The southerly of these, just over a slight blind crest, appeared to me to represent a potentially dangerous arrangement with vehicles slowing to enter the car park at this point, and indeed in having to exit here also. Discussions developed around the possibility of an offer to permanently close this access / exit point onto the main road in substitution for the Council looking favourably upon the new proposed exit point. In further discussions with the Planning Manager it was agreed that, subject to the exit point itself being safe, that this could allow the application to be regarded as an exception to Policy AMP3 as outlined above. DFI Roads have confirmed that the splays indicated of 2.4 x 215m in both directions from the new exit point are acceptable.

Expansion of Consultation responses.

As the development potentially impacts on the setting of the Listed Church, HED were consulted and concluded their deliberations as below.

'The application for 'Provision of an exit from new car park to rear of existing church and proposed church hall complex' (LA09/2017/1039/F) impacts upon Lecumpher Presbyterian Church (Grade B) which is of special architectural and historic importance and is protected by Section 80 of the Planning Act (NI) 2011.'

'Historic Environment Division: Historic Buildings (HED:HB) has considered the revised information provided and advises:

It is content the proposal satisfies the policy requirements of Strategic Planning Policy Statement (Para 6.12 & 6.13) and BH11 (Extension or Alteration of a Listed Building) of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage subject to Conditions'.

Explanatory Note:

HED:HB has reviewed the Revised drawing 01/C and is now content the proposal satisfies the policy requirement of the SPPS para 6.12 and BH11, PPS6, subject to the following conditions

1. The boundaries identified in green on the attached map shall be planted with native species hedging to match the new northern boundary. Planting works to commence

within the first planting season from the date of approval.

2. The 3 no. car parking spaces outlined in red on the attached map shall be omitted from the site layout proposal.

Reason 1-2: To protect the setting of the listed building

A DFI Roads response on file states that they are not convinced that the closure of an existing access, unrelated to the site in question, has any bearing on our previous consultation response.

Subsequently, DFI Roads would refuse this application for the following reason:

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

I have set out the Councils rationale for accepting the proposal as an exception to PPS3 Policy relating to Protected Routes.

No objections have been received to the application from third parties.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

I ask the Planning Committee to accept the proposal as an exception to PPS3 subject to the following conditions:

Conditions

1. 5 year commencement time limit.
2. That splays as detailed on plan No 01/E and 02/B are provided prior to the commencement of any development hereby approved and permanently retained.
3. That upon the new exit only point becoming operational that the southern access to the car park as identified on drawing No 01/E is permanently closed up as detailed on plans.
4. That the new entrance point be used only to allow vehicles to exit the site.
5. The boundaries identified in green on the attached map shall be planted with native species hedging to match the new northern boundary. Planting works to commence within the first planting season from the date of approval. (Reason To protect the setting of the Listed Building)

Signature(s) M.Bowman

Date: 21/11/2018

ANNEX	
Date Valid	3rd August 2017
Date First Advertised	17th August 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 23 Killyboggan Road Lecumpher Magherafelt	
Date of Last Neighbour Notification	9th August 2017
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2017/1039/F Proposal: Provision of an exit from new car park to rear of existing church and proposed church hall complex Address: Land to the north of Lecumpher Presbyterian Church 106 Desertmartin Road, Moneymore, Magherafelt, Decision: Decision Date: Ref ID: H/2014/0335/F Proposal: Extension to existing church hall complex Address: 106 Desertmartin Road, Moneymore, Magherafelt, Decision: PG Decision Date: 25.09.2015 Ref ID: H/2014/0339/LBC Proposal: Extension to church hall complex Address: Lecumpher Presbyterian Church, 106 Desertmartin Road, Moneymore, Magherafelt, BT45 7RJ, Decision: CG Decision Date: 25.09.2015 Ref ID: H/1991/0218 Proposal: ALTS & ADDS TO CHURCH	

Address: 106 DESERTMARTIN ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: H/1991/0219

Proposal: ALTERATIONS AND ADDITIONS TO CHURCH (LISTED BUILDING
CONSENT)

Address: 106 MONEYMORE ROAD DESERTMARTIN

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

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Status: Submitted

Drawing No.
Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1101/O	Target Date:
Proposal: Proposed "off site" replacement dwelling (to include a basement) and domestic garage / store (based on planning policy CTY 3) with the existing dwelling to be retained as ancillary use to the main home dwelling	Location: Approx 165m South West of no 73 Ballyscullion Road Bellaghy
Referral Route: This application is being presented to Committee as it is being recommended for Refusal	
Recommendation:	REFUSE
Applicant Name and Address: Mr Gavin Breslin 73 Ballyscullion Road Ballyscullion West Bellaghy BT45 8NA	Agent Name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	Historic Environment Division (HED)	Content

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 representations have been received in respect of this proposal

Description of Proposal

The proposal is an outline application for an 'off-site' replacement dwelling (to include a basement) and domestic garage / store (based on planning policy CTY 3) with the existing dwelling to be retained as ancillary use to the main home dwelling.

The proposed site for the replacement dwelling is set around 150m to the south west of the existing building and will be accessed via a new laneway which joins onto the existing laneway and will therefore share the existing access point onto the Ballyscullion Road. The site is visually divorced from the site due to the existence of a significant copse of mature deciduous trees, known as Seawright's Wood. The site falls gently from the south west towards the south east and has panoramic views over Lough Beg with Ballyscullion House in the distance to the south west. There is a 1.5m high thorn hedge along the northern and eastern boundaries while the other boundaries are undefined. There are no critical views of the site from the public road system, however, there are critical views of the site from Lough Beg which is a public water system. From that vantage point, any dwelling on the site will be highly visible due to the elevated nature of the site and the lack of boundary vegetation on the southern, eastern and western boundaries.

Characteristics of the site and area

The site comprises two parcels of land. The first contains the existing building which is set within the grounds of the applicant's dwelling which also contains a number of outbuildings some of which are dilapidated. The building which is the subject of the replacement is a low 2 storey building, set to the front of the existing dwelling and has a certain character. It is built with basalt stone on the front elevation with red brick detailing around the window openings and door heads and has a natural slate roof. The red brick detailing is also carried thru at wall plate level and on the single chimney which is positioned on the ridge but is off-centre.



However, there was no clear evidence of this chimney extending to ground level with no chimney breast or fireplace in either part of the building. The upper floor of the building has three louvered windows to the front with a pedestrian doorway directly over one of the ground floor windows and is centred on the front elevation. This doorway has a small dormer type roof which is tied into the main roof. It is interesting to note that the main door to the front is a bi-folding door which is

hinged in the middle as well as to one side and is wider than a normal door. This would again be consistent with the building being able to accommodate horses entering stables.



The existing building is split in two with the right-hand side having a wide arched doorway and would appear to have been a coach house, while the left hand side has a pedestrian doorway. The left hand side of the building has two small rooms with only a small window to the front of each. There are no further windows to either the gables or rear.



There are dilapidated agricultural buildings and cattle handling pens to the rear of the building to be replaced. Within one of the buildings attached to the rear of the building to be replaced, is a small opening at first floor level. This opening provides a second access to the first floor loft area of the building, which extends the full length of the building. The only obstruction within this first floor loft area is the chimney which rises up through the building. It is evident that the loft area is used for the storage of hay. This would appear to have been the original use of the building as the door opening at first floor level, on the front, would have been used for access and the louvered openings at the front would have provided the necessary ventilation. These louvered openings are all at floor level and not at height compatible with an area used for human habitation.



First floor area

Relevant planning history

There is no previous planning history on this site.

Planning Assessment of Policy and Other Material Considerations

Development Plan and key policy considerations

The site lies outside any defined settlement limits and is open countryside as identified in the Magherafelt Area Plan 2015. No other constraints have been identified.

PPS 21 – sustainable development in the countryside Policy CTY 3 – Replacement Dwellings States the planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. This includes buildings previously used as dwellings.

In this case, it is my opinion that the building does not exhibit all the characteristics of a dwelling. Although the existing building does have a door, windows, roof, a chimney and all four external walls are fully intact, there is nothing on site to convince me that this building was ever a

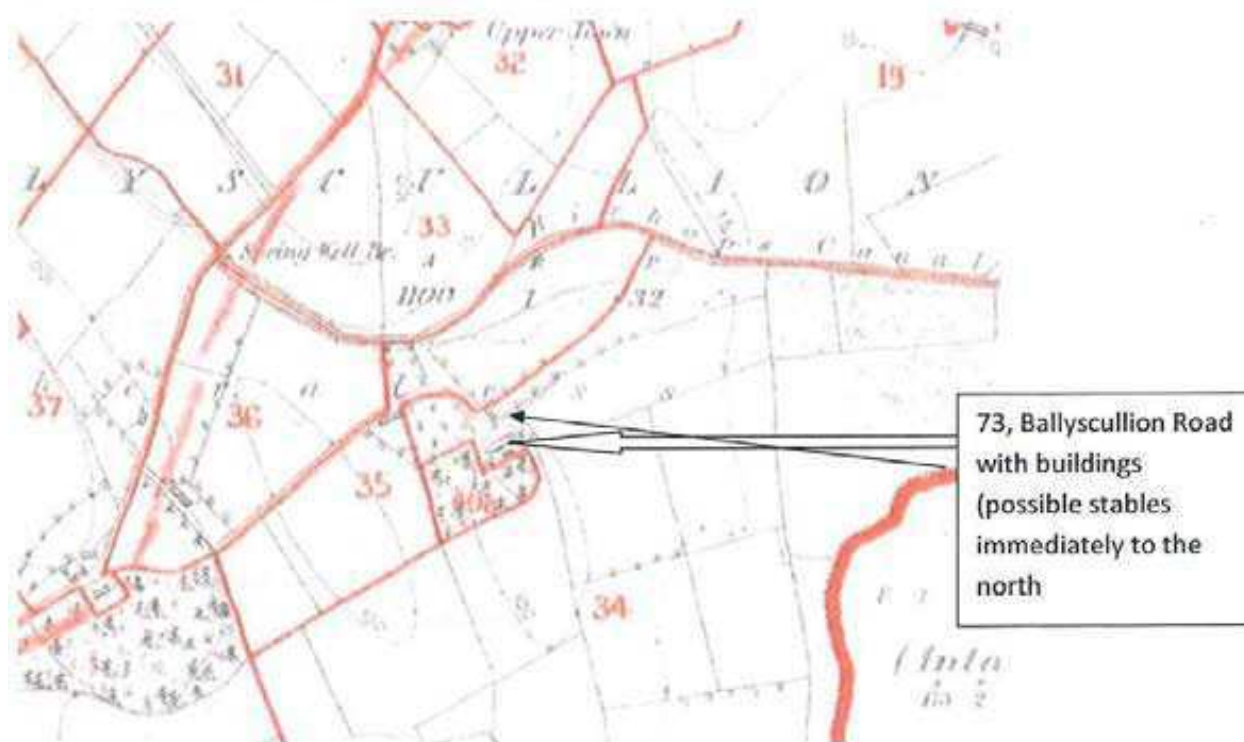
dwelling. I am of the opinion that given the design of the building, that the original use was actually stables and a coach house for the main dwelling to the south. It is obvious that with the large arched doorway to the left of the subject building, this was a stable. This was typical of the design of stables from this period. Additionally, the remainder of the building would have been stables as it was normal to have the coach house and stable together. The lack of windows on three walls would also indicate that this was not a dwelling but in fact was the stables.

The agent in submitting the application, also submitted additional information in the form of a design and access statement. This statement advised that *'No.73 Ballyscullion Road and its associated outbuildings although not listed hold important architectural character and features'*. It is agreed that the existing building to be replaced does indeed have architectural character and it would be desirable to have this retained.

The statement also claims that the building exhibits all the characteristics of a dwelling as it has windows, a chimney and all structural walls are intact. The existence of these elements of a building in itself does not prove beyond reasonable doubt that the building was a dwelling. As stated above, these elements would also be characteristic of stables and a coach house, where a chimney could be located within the stable in connection with a forge and shoeing horses.

The supporting statement refers to research carried out and in particular to the Griffith's Valuation (1862). The statement states that *'Lot 34..... Comprises a house, office buildings (which covers outhouses and stables and land...'*. As the document refers to dwelling in the singular and not dwellings, this is clear evidence that there was only one dwelling on Lot 34, ie. the existing no.73. This is further supported by the extract of Griffith's Valuation (1862) Townland of Ballyscullion East, provided within the design and access statement which states *'73 Ballyscullion Road with buildings (possible stables immediately to the north'*. As the map clearly identifies the existing dwelling as no.73, the second building seen on the map is therefore clearly the building referred to as stables. This map is repeated in the statement and is overlaid with a modern map and again refers to *'with buildings (possible Stables) immediately to the'*.

Griffith's Valuation (1862) Townland of Ballyscullion East



The statement goes on to advise that John Hamill is sub-letting a house and also a second house, both located within Lot 34. This would in affect mean that there were three buildings in Lot 34, two houses and the stables. However, only two buildings are identifiable from the map. What is questionable is the location of the second dwelling if indeed it ever existed, as it is quite possible that the 'second' dwelling has been demolished and that what has been retained is the main dwelling and the stables. Even if it were to be accepted that there were two dwellings on Lot 34, the Griffiths Valuation **does not** identify the **exact** location of individual buildings and has not done so in this instance. Therefore, in this instance it has not been accepted that the building to be replaced has ever been a dwelling.

Policy CTY 3 goes on to state that *'favourable consideration will however be given to the replacement of a redundant non-residential building with a single dwelling'* however, this is conditional *'where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage.....'* However, as discussed above, and as suggested by the design and access statement, the building to be replaced although not listed holds important architectural character and features'. Therefore it is accepted that the building to be replaced should be retained. Given the location of the building to be replaced and the distance it is set off the public road with no visual impact, it is not accepted that there would be any environmental benefit in having this building replaced.

Policy CTY 3 also requires all replacement cases to be sited within the established curtilage of the existing building unless it is too restricted or it can be shown that an alternative position would result in demonstrable landscape, heritage, access or amenity benefits. In this case, if the principle of replacement were to be accepted, it is acknowledged that as the existing building is to be retained, it would not be possible to develop a new dwelling on the existing site due to the limited space. However, there are alternative sites available which are much closer to the existing building than the proposed site and which would be more acceptable. One such site is the field to the north of the existing farmyard. This site is around 60m from the existing building as opposed to 150m and is sufficiently well separated from the farm yard so as not to pose any health and safety concerns. It would also negate the need for a new laneway as access can be achieved directly from the existing lane and again it would not have any significantly greater visual impact from the public view.

As this is an outline application, any issues relating to size and design, could be dealt with by way of any subsequent Reserved Matters application. However, due to the elevated nature of the site and panoramic views from the site towards Lough Beg and vice-versa, any dwelling on the proposed site would be highly visible from Lough Beg which is part of the public river corridor and is frequently used by boats. Given the topography of the site and the surrounding land, the low cut hedge along the eastern boundary will provide no integration potential whatever. Additionally there are no defined boundaries along the southern or western sides. Therefore any dwelling on the proposed site will have a significantly greater visual impact than the existing building, which is not visible from any public vantage point.



View from the site overlooking Lough Beg towards the East

Policy CTY 3 also refers to Non-Listed Vernacular Dwellings and although as discussed above, it is not accepted that the existing building was a dwelling, notwithstanding this, if the existing building were to be regarded as a former dwelling, its replacement would not be supported by this policy. The policy states that the retention and sympathetic refurbishment, with adaptations if necessary, of non-listed vernacular dwellings will be encouraged in preference to their replacement. A dwelling which makes an important contribution to the heritage of the locality, which has already been accepted as detailed above, would only be acceptable for replacement where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved. The subject building is structurally sound and can be improved and converted with no evidence, neither visible nor submitted, to suggest otherwise.

This building is undoubtedly a non-listed vernacular building which should be retained and refurbished as opposed to being replaced. This option is permissible under Policy CTY 4 which caters for the conversion and reuse of locally important buildings, including such use as a dwelling, where this would secure its upkeep and retention.

CTY 13 – Integration and Design of Buildings in the Countryside

Due to the topography of the site, the lack of acceptable boundary vegetation and the critical views from Lough Beg, any dwelling on this site would suffer from a lack of integration and would appear prominent on the landscape. Due to the lack of long established natural boundaries or a suitable degree of enclosure any dwelling would fail to integrate into the surrounding landscape as it would be totally reliant on proposed landscaping to achieve an acceptable degree of integration.

CTY 14 – Rural Character

Any dwelling on the application site would result in a detrimental change to the character of the surrounding area as it would be considered to be unduly prominent due to the critical views from Lough Beg from where a dwelling would occupy an elevated position in the landscape.

PPS 3 – Access, movement and parking

Transport NI were consulted and advised that they have no objection to the proposal subject to the provision of the necessary visibility splays. However, it should be noted that the in order to

provide the necessary visibility splays, the walls at the existing entrance would have to be set back on both sides of the access. It is noted that this will require control of third party lands.

Recommendations

On consideration of the above, it is my opinion that the proposal is contrary to Policy CTY 3 because;

the building was never a dwelling;

the proposed redevelopment would not bring any significant environmental benefits;

the existing building makes an important contribution to the heritage of the locality;

it has not been demonstrated that it is not reasonably capable for the existing building to be made structurally sound or otherwise improved;

any dwelling on the proposed site would suffer from a lack of integration and would have a visual impact significantly greater than the existing building;

The proposal is contrary to Policy CTY 13 because;

A new dwelling would be a prominent feature on the landscape;

The site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and

A new dwelling on the proposed site would rely primarily on the use of new landscaping for integration purposes.

The proposal is contrary to Policy CTY 14 as a dwelling on the proposed site would be unduly prominent in the landscape.

Therefore planning approval should be refused for the proposed development for the following reasons:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reasons stated below

Refusal Reasons:

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside as the building which it is proposed to replace makes an important contribution to the heritage of the locality and it has not been demonstrated that it is not capable of being made structurally sound and improved.
2. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that;
 - the building has been designed and used for agricultural purposes;
 - the proposed replacement dwelling is not sited within the established curtilage of the existing building and it has not been shown that the alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits; and
 - the proposed replacement dwelling would have a visual impact significantly greater than the existing building.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:
 - the proposed building would be a prominent feature in the landscape;

- the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; and
- the proposed building relies primarily on the use of new landscaping for integration;

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, be unduly prominent in the landscape and would therefore result in a detrimental change to erode the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	15th August 2017
Date First Advertised	31st August 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
No Neighbours to be notified	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	N/A
ES Requested	No
Planning History	
<p>Ref ID: LA09/2017/1101/O Proposal: Proposed "off site" replacement dwelling (to include a basement) and domestic garage / store (based on planning policy CTY 3) with the existing dwelling to be retained as ancillary use to the main home dwelling Address: Approx 165m South West of no 73 Ballyscullion Road, Bellaghy, Decision: Decision Date:</p> <p>Ref ID: H/2010/0351/F Proposal: 11KV Overhead Powerline Address: 400m South West of 73 Ballyscullion Road, Bellaghy Decision: Decision Date: 04.11.2010</p>	
Summary of Consultee Responses	
All consultees responded positively, however, DfI Roads advised that the walls need to be set back to achieve the required visibility splays in both directions.	
Drawing Numbers and Title	
<p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>	
Notification to Department (if relevant)	
<p>Date of Notification to Department: Response of Department:</p>	

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1238/F	Target Date:
Proposal: 21 Dwellings 2 storey in height with associated car parking and landscaping.	Location: Killymeal House and adjacent lands, Killymeal Road Dungannon
Referral Route: Objection to the proposal for statutory consultee. Objection received but resolved.	
Recommendation:	Approval
Applicant Name and Address: J & V Construction 30 Greenagh Road Dungannon	Agent Name and Address: Clarman Architects Unit 1, 33 Dungannon Road Coalisland Co Tyrone
Executive Summary: This is an application for housing on a site that has a listed building in poor repair and tree preservation order. Historic Environment Division have objected on the basis of the impacts of the development on the setting of the Listed Killymeal House. The developer has secured planning permission for the upkeep and reinstatement of the house and has to finance those works through this development.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Transport NI - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Content
Statutory	NIEA	Advice
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Historic Environment Division (HED)	Concerns with the impacts of the development on the listed building, requesting archaeological surveillance conditions

Representations:

Letters of Support	0
Letters of Objection	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	0
Summary of Issues Land ownership issues raised, these have been satisfactorily addressed. HED have concerns that the proposed housing to the front of Killymeal House will have a detrimental impact on the setting of the listed building and that the listed building will not be reinstated.	
Characteristics of the Site and Area The application site is a sloping site located to the south side of Killymeal House, it is bounded by a bend arm concrete post and wire fence along the south boundary, with the grounds of Dungannon Court House. The rest of the boundaries are undefined on the ground. Access to the site is from a new development road that serves a new housing to the east side of Killymeal House and the rear access to Dungannon Courthouse. Killymeal House and grounds was a former MOD site, it was listed in 1991 and following a fire in the main house, it is in a poor state of repair with only the walls remaining of the main building and the outbuildings at the rear. The site is just to the east of Dungannon Town Centre, as defined in the Dungannon & South Tyrone Area Plan 2010, it is in an area that has a mix of uses with St Patrick's Academy and St Patricks College on extensive grounds to the north, Dungannon Leisure Centre, Mid Ulster District Council Offices and South West College Campus to the west, Dungannon Court to the south and residential development also close by.	
Planning Assessment of Policy and Other Material Considerations Members are asked to note this development has already commenced on the site and the developer has been advised that any works they carry out at their own risk. This proposal is for the erection of 21 no 2 storey dwellings of which 18 are semi detached 2 bedroom houses, one is a detached 2 bedroom dwelling and there is one pair of semi detached 3 bedrooms dwellings. The dwellings proposed will have a mix of render and brick walls, slate roofs and slate effect roofs, hard wood and upvc timber effect windows and cast aluminium rainwater goods. The access road to the site will have a steep bank along the north slope, along the front of Killymeal House. The bank will be up to 5m in height and will be a reinforced earth bank that will be grassed over. The houses will be positioned along the south side of the road, between the development road and the boundary with the Courthouse grounds. Private gardens will be provided to the rear and side of the dwellings and Members are advised that 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 Dungannon & South Tyrone Area Plan does not zone this site for any particular purpose, it is part of a large swath of land that is whiteland within the settlement limits of Dungannon. Policy SETT1 allows for favourably consideration of development provided it meets a number of criteria.	

I do not consider the Strategic Planning Policy Statement provides any change in direction or clarification in relation to policies relevant to this application and as such I consider the existing policies contained in Planning Policy Statement (PPS) 2 – Natural Heritage, PPS3 – Access, Movement and Parking, PPS6 – Planning, Archaeology and the Built Heritage, PPS 7 – Quality Residential Environments, PPS8- Open Space, Sport and Outdoor Recreation, PPS12 – Housing in Settlements, PPS13 – Transportation and Land Use and PPS15 – Planning and Flood Risk should be considered in the determination of this proposal.

A design and access statement has been submitted which has identified the assets and constraints being associated with the listed building and the topography of the site which rises to the east. The larger Killymeal House Site has a tree preservation order in force and development at the eastern, upper part of the site has the potential to impact on this.

The proposed housing is broadly similar in appearance to the houses already approved within the grounds of Killymeal House and these are situated on the ground to the east of the site between the house and Killymeal Road. The houses climb the site from the west to the east with the houses at the entrance road sitting with a finished floor level of 92.5m and the houses at the top of the site at 109.9m. The houses have a mix of finishes with the dwellings in front of the listed building, sites 25 – 34 having rough case render walls, slate roofs with cloaked verges, hard wood windows and cast aluminium rain water goods. The houses on the upper slopes are a mix of painted render and brick walls, with concrete slate effect roof tiles and upvc wood effect windows, similar to the houses already approved on the site. I consider the type and appearance of the houses is reflective of the area. The garden areas for the dwellings are to the rear and are in excess of the areas set out in guidance for private amenity space in Creating Places. The garden areas are behind the houses and have landscaping to the boundary along the courthouse and screen wooden fences of 1.8m in height to separate the gardens. Whilst it is desirable to have 10m long gardens this is not proposed on sites 33, 34, 35 and 36, indeed the garden size is only 5 metres at the lowest point. The purpose of the 10m gardens is to protect the residents of the proposed development as well as any possible future development from impacts of overlooking or overshadowing. Properties 33 – 36 have a boundary with the courthouse and on the opposite side of the boundary is a steeply sloping bank. Due to the ownership and the topography I consider it is unlikely that any new development would be coming forward on the land to the rear of these properties and as such I feel it is reasonable to relax the guidance as they will still have a reasonable amount of private amenity space. Car parking for 2 cars at the side of each house has been provided for all the houses, with 11 communal spaces the upper part of the site. I consider this is an appropriate level of parking for these 19no 2 bedroom houses and 2no. 3 bedroom houses.

Roads engineers have been consulted in relation to the roads infrastructure associated with the development, they have not raised any concerns in principle about the development and advise they will adopt the road network, once it has been constructed. In regard to the adoption, amendments have been agreed to the details and these plans will be approved with the development. Members are asked to note these amendments do not affect the appearance of the development and are technical details that should be in place before the decision is issued. The development road provides a footpath link into the public network, it is also worth noting the close proximity of the site to the local schools, leisure centre and other public buildings all of which are within easy walking distance of the site. There is also a wide footpath along the Killymeal Road which provides a link through to the Oaks Centre, the peripheral cycle route and national cycle network. I consider this provides alternative modes of transport to serve the site.

Rivers Agency have been consulted in relation to the storm drainage from the site as the amount of hard surfaces has the potential to cause flooding. It has been proposed to attenuate the flow of the storm water from the site by providing storage on site and attenuate the flow through a

hydrobrake. Rivers have not raised any concerns about this method of attenuation and do not consider there will be a risk of flooding to the site or because of the development.

This proposal is part of a wider development of the entire site, open space for this part of the development is limited, however there is a large area of open space, approx. 1.ha, already approved along Killymeal Road. The entire site is approx. 5.7ha and there are other proposals coming forward which show additional lands to be retained for open space, particularly given the tree preservation orders on the site. Members should note this proposal does not provide the necessary 10% open set out in PPS8, however, I consider the proposal as part of a larger overall scheme will provide an adequate and appropriate level of open space. The development is in close proximity to protected trees in the east part of the site. The developer has indicated they intend to keep any development outside of any areas around the trees that could impact on their integrity and I consider a condition to require areas are fenced off to protect the trees is an appropriate mitigation measure.

Historic Environment Division have been consulted with the proposal, Historic Monuments Branch (HMB) have requested archaeological surveillance of the site and Historic Buildings Branch (HBB) have raised significant objections to the proposed development. As already advised the development has already started on the site and members will be aware that it is not illegal to do so, however any work carried out is at the developers own risk. HM have requested conditions are attached to any planning permission requiring an archaeological evaluation and surveillance should the development be granted planning permission. As the development has been commenced it is not possible to require the assessment is carried out prior to commencement of development, however, I have been assured that due to the previous MOD use of the site, the site is being monitored with analysis of and scrutiny of the soil samples. The developer was aware of the potential archaeology on the site given the previous planning conditions and has advised they have been excavating top soil and have not discovered any artefacts. I consider it may be appropriate to attach an informative to any planning permission to set this out.

Members are advised that HBB have strong objections to the proposed development, their concerns relate to the impact of the development on the setting of Killymeal House and the lack of assurances that the listed building will be reinstated. HBB Architects are concerned that by allowing housing development here and not tying the re-instatement of the listed building to the development, the building will be left to ruin and through complaints about health and safety of a dangerous structure it will have to be removed. Concerns about the design of the development relate to the impact the proposed road and houses to the front of Killymeal House will have on the setting of the listed building. These concerns relate to the development on the front meadow 'lawn' to Killymeal House and to develop it in this way will divorce the building from its planned setting. Concerns about the impact of the reinforced bank and road are also expressed in the response. Members are advised these concerns are very valid and as HBB architects are there to provide advice on these matters, to go against these recommendations should be done only with caution and the application could be refused on these grounds. HBB have advised they welcome the proposed reuse of Killymeal House and state there is no concern about the development of the lands to the east, however the access to this must be appropriate and that this could be achieved by way of an access road to the rear of the buildings or along the existing fence to the south of the site.

I think it is important for members to be aware of the background to Killymeal House, it was listed in 1991 as a classic country house set in a contemporary designed landscape and was recognised as being a good example of its type, was hardly altered and complete in its landscape setting. The listing map (Annex 1 Figure 1) indicates that the front garden was extensive and extended to the stream to the south. No doubt at the time of its listing, this building and its curtilage were worthy of protection. However, members should note what has occurred since the building was listed, it has been used by the MOD as an army barracks which has had a

significant effect on the building, the front garden was practically halved by NI Court Service while developing a new courthouse in Dungannon and following a fire the building was practically gutted and not more than a shell of the main building remains. The court house was approved by the Department of the Environment on 22 April 2007, under Crown Development reference M/1997/0075. There were no conditions relating to listed buildings or its setting and at that time Historic Monuments and Buildings were also within the Department of the Environment, if they were so concerned about the front meadow surely that would have been the time to intervene. It is quite clear that even if Killymeal House is fully reinstated it will never have the same curtilage and setting that it had when it was listed, this is irrespective of the proposed development but because of how the Government of the time allowed the building and its curtilage to be changed and eroded into what is there today. This application will undoubtedly change the setting of the listed building, but as indicted above the setting has already been significantly changed and eroded and what we have here is the opportunity to salvage the building.

The architect who submitted the proposal has taken into account the listed building and have tried to be as sympathetic as possible, they recognised there is a haw-haw (*a ditch with one side being a retaining wall; used to divide lands without defacing the landscape*) in the garden close to the front of the listed building. They have sought to replicate this with the reinforced earth bank to preserve the view from the listed building. The dwellings proposed in front of the listed building have been designed to be very simple in form and style, they are located at a much lower level than the listed building and as such will not dominate the building. At present there is a limited public perception of Killymeal House as it does not have any significant views due to the built development of Dungannon around it, the topography of the surrounding landscape and the strong belt of coniferous trees to the south. The architects have advised this proposal will set Killymeal House in an elevated position of importance within the approaches to the housing development and integrate it within the overall housing scheme. The developer has advised they are committed to re-instating the listed building within the overall development and have secured planning permission and listed building consent for its conversion to offices. This will provide a more secure use for the building for its long term maintenance and viability. The developer has also submitted further planning applications for the remainder of the site, which are currently undetermined and has provided a timetable for works to the listed building linked to these. The developer has specified certain works to the listed building to be carried out on completion of each phase of the development which will result in the building being fully re-instated. Members are advised this is a matter that could be dealt with by way of a planning agreement, however Section 52 of the Planning Act may allow conditions to be used to secure this. All the applications, including this one, have included the listed building within lands identified as being in control of the applicant and Section 52 of the Planning Act (NI) 2011 allows the Council to attached conditions for regulating development of land under the control of the applicant where it is expedient for the purposes of or in connection with development authorised by the permission. Whether or not it is expedient is a matter for debate, however I consider HED have very valid concerns that the listed building will become a dangerous ruin if left undeveloped. This planning application and others that are with the planning department are for housing on the site, if these are approved there is the potential to bring children and vulnerable people into close proximity of a dangerous structure. I consider it would be expedient to attach a condition to reinstate the building in a phased manner as proposed by the developer. They have not indicated the structure is so badly damaged that it should be removed and are willing to reinstate it, at their expense, without any grant aid and have advised they have secured a tenant for the building.

Members may wish to take account of the following material considerations in deciding this application:

- there are currently no assurances that the listed building will be re-instated, a condition on this planning permission, in accordance with Section 52, would secure a partial reinstatement and stability of the building

- the extent of the front garden of the property as it was originally listed has been significantly reduced, is not the same original planned landscape and the building and curtilage as listed are highly unlikely to ever be brought back to that condition
- the proposal will bring this listed building into an area of public domain, it will be reinstated and will have a use that will ensure its continued existence

Other matters for consideration relate to:

- potential land contamination of the site, a report has been submitted that illustrates there is limited potential for land contamination on this part of the site, due to the historic uses, however I consider it is still prudent to attach the monitoring conditions that NIEA have suggested in the event of discovery of contamination,
- habitat and ecology, NIEA have requested detailed landscaping to mitigate against loss of mature vegetation on the site and details for the retention of other buildings on the site, there is no mature vegetation or buildings to be removed within this application site.

Taking into account of all the relevant policies and the objections received, I consider the harm to the setting has already been done, there is an opportunity for a developer funded reinstatement of the listed building which will preserve it for future generations and as such I consider planning permission should be granted for the proposal.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve with conditions.

Conditions

- 1) As required by Section 61 of the Planning Act (NI) 2011, the development hereby approved shall be begun within 5 years of the date of this decision.

Reason: Time Limit

- 2) The vehicular access, including visibility splays and any forward sight line shall be provided in accordance with the approved plans, prior to the occupation of any of the dwellings 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 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) The (gradient of the access/gradients of the accesses) shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

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

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

- 5) All hard and soft landscape works shall be carried out in accordance with drawing No 02/03 bearing the stamp dated 21 SEP 2018 and to the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any of the dwellings hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

- 6) All fuel storage tanks (and associated infra-structure) must be fully decommissioned and removed in line with current Guidance for Pollution Prevention (GPP 2) and the Pollution Prevention Guidance (PPG27) and the quality of surrounding soils and groundwater verified. Should contamination be identified during this process condition 7 & 8 will apply.

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

- 7) If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Model Procedures for the Management of Land Contamination (CLR11). In the event of unacceptable risks being identified, a remediation strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction.

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

- 8) After completing the remediation works under Conditions 6 and 7; and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11).

The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

- 9) Prior to the occupation of all the dwellings hereby approved the works to Killymeal House as set out in Phase 3 on page 9 of the document 'Development Appraisal for Reconstruction of Killymeal House Phasing Plan' dated 10th August 2018, shall be carried out as stated.

REASON: To ensure the orderly reinstatement of Killymeal House in the interests of public safety.

- 10) Prior to the occupation of any of the dwellings hereby approved all storm water drainage systems and attenuation shall be provided on site in accordance with details in the drainage assessment and noted on drainage layout drawing C-01.

Reason: To prevent flooding

- 11) Within 6 weeks of the date of this decision, the existing trees on the site identified in red on drawing 02/03 shall be have fences erected around them to the satisfaction of the Planning Department. These fences shall be maintained through the construction phase and there shall be no disruption to the ground within the fenced area and no storage of any kind within the fenced area.

Reason: To ensure the protection of trees on the site.

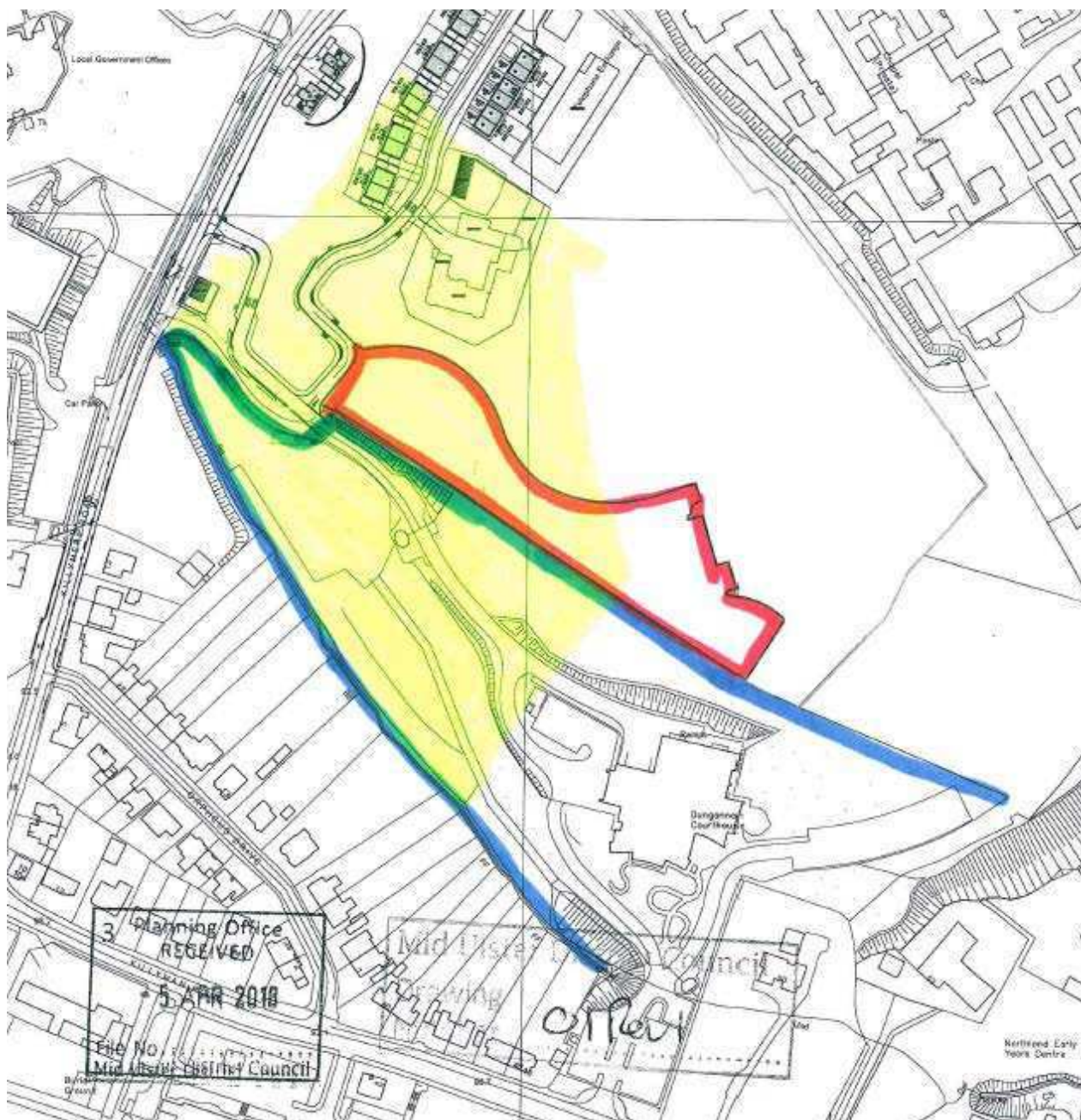
Private Streets Order

- 12) The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department has determined 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 Drawing13/06.

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.

Figure 1- listed building and curtilage from original listing schedule

Figure 2 - Overlay of listed building curtilage, in yellow, court house curtilage in blue and application site in red



Date Valid	14th September 2017
Date First Advertised	28th September 2017
Date Last Advertised	

Details of Neighbour Notification (all addresses)

Raymond Wilson

Courts And Tribunals Service, Security Branch, 2nd Floor, Laganside House, 23-27 Oxford Street, Belfast, BT1 3LA

Raymond Wilson

NICTS Security Advisor, 2nd Floor, Laganside House, 23-27 Oxford Street, BELFAST, BT1 3LA

The Owner/Occupier,

The Courthouse, 46 Killyman Road, Dungannon BT71 6DE

Date of Last Neighbour Notification

29.09.2017

Date of EIA Determination

22/11/2018

ES Requested

No

Planning History

Ref ID: LA09/2017/0349/DC

Proposal: Discharge of Planning Condition 16 on LA09/2015/0241/F

Address: Killymeal House and adjacent lands, Killymeal Road, Dungannon,

Decision: AL

Decision Date:

Ref ID: LA09/2017/0551/NMC

Proposal: Changes to approved finishes to proposed dwellings .To include change from natural slate to slate effect concrete roof tiles and change from timber windows to UPVC coloured woodgrain timber effect windows

Address: Killymeal Road, Dungannon,

Decision: CR

Decision Date:

Ref ID: LA09/2017/0664/TPO

Proposal: Proposal for consent to carryout works to a protected tree

Address: Lands at Killymeal House, Killymeal Road, Dungannon,

Decision: CG

Decision Date:

Ref ID: LA09/2017/1238/F

Proposal: 21 Dwellings 2 Storey in height with associated car parking and landscaping

Address: Killymeal House, and adjacent lands, Killymeal Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/1997/0075

Proposal: New Court House and associated works

Address: REAR OF ORPHEUS DRIVE & KILLYMAN ROAD, DUNGANNON

Decision:

Decision Date: 22.04.1997

Ref ID: M/1994/0244

Proposal: Site for new courthouse

Address: LAND REAR OF ORPHEUS DRIVE AND KILLYMAN ROAD DUNGANNON

Decision:

Decision Date: 04.05.1995

Ref ID: M/2005/0579

Proposal: Development Potential of Killymeal House

Address: Killymeal House & Grounds, Killymeal Road, Dungannon

Decision:

Decision Date:

Ref ID: M/2007/1303/Q

Proposal: Housing Developments

Address: Killymeal House, Dungannon

Decision:

Decision Date:

Ref ID: M/2014/0073/PREAPP

Proposal: Development of Killymeal House

Address: Killymeal House, Killymeal Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2008/0425/F

Proposal: Construction of housing development consisting of 41 no. units in total (33 no apartments & 8 no. townhouses) & parking and landscaping

Address: Lands to the north and west and adjacent to Killymeal House, Killymeal Road, Dungannon. BT71 6DP

Decision:

Decision Date: 11.11.2010

Summary of Consultee Responses

DFI Roads – roads to be adopted

Rivers Agency – drainage scheme should prevent flooding

Mid Ulster District Council EHO – land contamination to be dealt with by conditions

NIEA - land contamination to be dealt with by conditions

NI Water – standard advice

Historic Environment Division – archaeology seek surveillance, buildings concerned about impact on the setting of the listed building and long term plans for listed building SES – unlikely to have any significant effects on designated sites
Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
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Status: Submitted

Drawing No.
Type:

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1333/O	Target Date:
Proposal: Proposed trout hatchery farm managers dwelling and domestic garage	Location: Site adjacent to 91 Glengomna Road Draperstown
Referral Route: Contrary to CTY 1 and CTY 7 of PPS21 Contrary to PPS2 and SPSS for Northern Ireland	
Recommendation:	REFUSE
Applicant Name and Address: Mr Alan McKeown 266 Orritor Road Orritor Cookstown	Agent Name and Address: Mark Nelson Architecture Garden Studio 2 Craigmount Orritor Cookstown BT80 9NG
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

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

Contrary to CTY 1 and CTY 7 of PPS21 and contrary to PPS 2: Natural Heritage and Strategic Planning Policy Statement for Northern Ireland.

Characteristics of the Site and Area

The proposal site located within an overgrown plot of land located immediately adjacent to a farm building associated with an established farm hatchery business. The site is undulating in nature with levels falling from the west to east. Located on the western side of the site is a detached bungalow with a detached garage although within a large site while to the north and east are ponds, the farm building and the river. The site is overgrown with mature vegetation which extends to all boundaries of the site.

Description of Proposal

Outline application for 'Proposed Trout hatchery farm managers dwelling and domestic garage'.

Planning Assessment of Policy and Other Material Considerations

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 1 - General Principles

Planning Policy Statement 21 - Sustainable development in the countryside

Consultees: - NI Water were asked to comment and responded on 11.10.2017 with no objections to the proposal.

Environmental Health were asked to comment and responded on 19.10.2017 with no objections subject to advice.

DfI were asked to comment and responded on 08.11.2017 with no objections subject to conditions.

NIEA were asked to comment and responded on 14.11.2018 - Water Management Unit is content with the proposal subject to conditions and advice, however Natural Environment Division has concerns with the proposal and considers that the proposal would be contrary to the Habitats Regulations and Planning Policy Statement 2: Natural Heritage and the Strategic Planning Policy Statement for Northern Ireland in that:

1. The development would be likely to harm bats protected by law and insufficient information has been submitted to establish otherwise

2. The development would have an unacceptable adverse impact on priority habitats and natural heritage feature worthy of protection and insufficient information has been submitted to establish otherwise.

Neighbours: Owners/Occupiers of No. 91 Glengomna Road were notified of this proposal on 11.10.2017, no representations have been received to date.

In line with legislation this proposal was advertised in the local press during Oct 2017, no representations have been received to date.

The proposal site is hydrologically connected to Lough Neagh and Lough Beg SPA, Lough Neagh ASSI which is of international and national importance and is protected by Conservation (Natural Habitats etc) Regulations (Northern Ireland) 1995 (as amended), and the Environment (Northern Ireland) Order 2002.

According to policy 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 of these is a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7. According to CTY 7 planning permission will be granted for a dwelling house in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work.

A letter has been submitted dated 12.02.2018 giving a details as to why the applicant considers the proposed dwelling is essential at this location. It has been stated that due to the introduction of new screens being used in the ponds that someone needs to be on site 24/7 should one of the screens block. Having considered the points within this letter I do not feel that the information provided is justification as the need for a dwelling at this location but rather would comment that it would be possible for someone to live elsewhere and visit the site in order to provide this maintenance described of the necessary screens.

As such it is my opinion that the proposal fails to meet the criteria within CTY 7.

As the proposal site is sited between a detached dwelling and detached garage and the building related to the farm business I did feel it was necessary to consider the possibility of the proposal site complying with CTY 8 and being considered as an infill opportunity. However although the property and detached garage at 91 Glengomna Road is visible and has a frontage to the road the trout hatchery building does not have a frontage to the road and as such there is not a line of 3 or more buildings along a road frontage and the proposal site fails to meet the requirements of this policy.

A further type of development which may considered relevant for this proposal is a dwelling on a farm in accordance with Policy CTY 10.

According to CTY 10 planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

a) the farm business is currently active and has been established for at least 6 years; - the applicant has submitted invoices relating to the farm business which date from present day back beyond 6 years thus establishing the business has been in operation however I would question as to what level whether this operation could be described as a business or rather a hobby. Both from the information submitted and also from what was surveyed on site.

b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. - following a GIS database search I was able to ascertain that this is the only land within the applicants ownership and no other development opportunities have been sold off from the 'farm holding' within 10 years.

c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:

- demonstrable health and safety reasons; or

- verifiable plans to expand the farm business at the existing building group(s).

The proposal site is sited immediately adjacent to an existing hatchery building. This single building is the only building within the farm holding. Access is proposed to be directly onto Glengomna Road.

Having considered these points it is my opinion that the proposal fails to meet the criteria necessary for a dwelling to be approved on a farm.

In addition to the criteria above planning permission will only be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design, thus complying with the criteria of CTY 13 - Integration and Design of Buildings in the Countryside.

According to this policy a new building will be unacceptable where:

- a) it is a prominent feature in the landscape; - the proposal site would not be prominent in my consideration due to the surrounding topography and vegetation.
- b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape; - the site is bounded on all sides by mature planting and vegetation. Currently the site is completely overgrown and would need a good level of clearance should an approval be granted. The existing farm building for the trout hatchery and ponds are located immediately north and north east of the proposal site. Thus it is my consideration that the proposal can satisfy the requirements of this criteria.
- c) it relies primarily on the use of new landscaping for integration - as previously stated the site benefits from existing mature boundaries and so complies with this criteria.
- d) ancillary works do not integrate with their surroundings - a new access is proposed, DfI have been asked to comment and have provided a suitable condition to be applied should an approval be granted.
- e) the design of the building is inappropriate for the site and its locality - no design has been specified at this time as this is an outline application, however I feel due to the adjacent development and nature of the site that a ridge height restriction of less than 6.5metres would be acceptable along with the levels at reserved matters stage should an approval be granted.
- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop - should a ridge height restriction be given and the site levels maintained and the boundaries retained I feel a dwelling could blend with the landform on this proposed site.
- g) in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm. - the proposal site is immediately adjacent to the existing trout hatchery.

Finally accessing the proposal against the requirements of CTY 14 whereby it states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Under this policy a new building will be unacceptable where:

- a) it is unduly prominent in the landscape; - in this particular proposal the site is not prominent in the landscape.
- b) it results in a suburban style build up of development when viewed with existing and approved buildings - the proposal site is adjacent to an existing farm building and would be read in conjunction with that.
- c) it does not respect the traditional pattern of settlement exhibited in that area - the traditional pattern is single detached properties associated with farm holdings, which this proposal adheres to.
- d) it creates or adds to a ribbon of development - this proposal site would not create or add to a ribbon of development.

e) the impact of ancillary works would damage the rural character. - access would be directly taken off Glengomna road, no consultees have any concerns with this proposal.

Having considered all of the above points I feel that a refusal should be given as the proposal is contrary to CTY 1 in that there are no overriding reasons why the development is essential and could not be located in a settlement and is contrary to CTY 7 of PPS21 in that it has not been clearly demonstrated that it is essential for one of the firm's employees to live at the site of their work. During the site visits it was noted that the proposal could have an impact on the adjacent river corridor and the significant level of vegetation on and immediately adjacent the proposal site. Due to this the views of NED was sought and their response was to recommend a refusal as the proposal is contrary to Planning Policy Statement 2: Natural Heritage and the Strategic Planning Policy Statement for Northern Ireland, as outline below.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal recommended

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 Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.
3. The development would be likely to harm bats protected by law and insufficient information has been submitted to establish otherwise.
4. The development would have an unacceptable adverse impact on priority habitats and natural heritage feature worthy of protection and insufficient information has been submitted to establish otherwise.

Signature(s)

Date:

ANNEX	
Date Valid	29th September 2017
Date First Advertised	12th October 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 91 Glengomna Road Draperstown Londonderry	
Date of Last Neighbour Notification	11th October 2017
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2017/1333/O Proposal: Proposed trout hatchery farm managers dwelling and domestic garage Address: Site adjacent to 91 Glengomna Road, Draperstown, Decision: Decision Date: Ref ID: H/1984/0190 Proposal: HV O/H LINE (BM 6510) Address: GLENGOMMA BRIDGE, DRAPERSTOWN Decision: Decision Date: Ref ID: H/1990/6063 Proposal: FISH FARM GLENGOMNA BRIDGE DRAPERSTOWN Address: GLENGOMNA BRIDGE Decision: Decision Date: Ref ID: H/1980/0339 Proposal: SPLIT LEVEL BUNGALOW Address: GLENGOMNA ROAD, GLENGOMNA, DRAPERSTOWN Decision: Decision Date:	

Ref ID: H/1989/0271
Proposal: SITE OF DWELLING AND GARAGE
Address: GLENGOMNA ROAD DRAPERSTOWN
Decision:
Decision Date:

Ref ID: H/2004/1477/O
Proposal: Site of dwelling and garage
Address: Adjacent to, 91 Glengomma Road, Draperstown
Decision:
Decision Date: 08.11.2005

Summary of Consultee Responses

Drawing Numbers and Title

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

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1407/O	Target Date:
Proposal: Construction of industrial and commercial units on serviced sites	Location: Site to be developed located on lands between A29 Cookstown Road/Rossmore Road and 48 Coalisland Road Dungannon
Referral Route: Major application Development sits outside the settlement limits for Dungannon	
Recommendation:	Approval
Applicant Name and Address: Maximus Crushing and Screening 48 Coalisland Road Dungannon	Agent Name and Address: Clarman and Co Unit 1 33 Dungannon Road Coalisland BT71 4HP
Executive Summary: This application is for the reuse of a former quarry on the edge of Dungannon for Industrial purposes. This proposal is considered in connection with LA09/2017/0567/F.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	NI Water - Strategic Applications	
Statutory	Rivers Agency	Advice
Statutory	NIEA	Advice
Non Statutory	Invest NI	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	DETI - Geological Survey (NI)	Add Info Requested

Non Statutory	NI Water - Strategic Applications	Considered - No Comment Necessary
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 issues raised		
Characteristics of the Site and Area This application site is approx.. 4.3ha and is part of a former quarry on the north side of Dungannon, just outside the settlement limits. The area has been levelled and has a high bank topped with trees to the south, a hedge with some young trees along the west and the other boundaries are undefined on the ground. The site was part of the larger Tyrone Brickworks site and sits in a valley with higher ground to the south and north and existing buildings, which were associated with the brickworks, to the west and east. The site is also south of a former railway line. There is an active quarry on the opposite side of Carland Road, single rural houses to the south west, a cemetery and open space to the south, with Drumglass House and grounds which house a number of Health and Social Service Facilities and a special school to the south east.		
Description of Proposal This application is for outline planning permission to establish the acceptability of the site for industrial purposes.		
Planning Assessment of Policy and Other Material Considerations This application is accompanied by an Environmental Statement which has been prepared in accordance with the Planning (Environmental Impact Assessment) Regulations (NI) 2015. Planning History M/1974/0438 – Mineral Extraction PP Granted 25 March 1975 M/1975/0375 – Extension to Existing Building, Modernisation of Existing Clay Brick Factory PP Granted 24 November 1975 M/1976/0402 – Replacement Factory – PP Granted 11May 1977 Members are advised that 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. Policy documents being considered: Dungannon & South Tyrone Area Plan 2010 Strategic Planning Statement for Northern Ireland (SPPS) A Planning Strategy for Rural Northern Ireland		

PPS2 – Planning & Natural Heritage
PPS3 – Access, Movement & Parking
PPS4 – Planning & Economic Development
PPS6 – Planning, Archaeology and the Built Heritage
PPS15 – Planning & Flood Risk
PPS21 – Sustainable Development in the Countryside

Dungannon & South Tyrone Area Plan Planning identifies the site as being outside the settlement limits for Dungannon with the south boundary of the application site contiguous with the settlement limit. This site is therefore within the rural area.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) has a guiding principle that sustainable development should be permitted unless it causes demonstrable harm to areas of acknowledged importance, particular if it conflicts with an up to date area plan. Members will be aware of the issues around the supply of industrial land in Dungannon and while the Dungannon & South Tyrone Area Plan 2010 has identified land for proposed industrial development, this land has not been brought forward and there are issues with that land coming forward. As such members will be aware of the lack of industrial land to accommodate the level of industry in the area. While the DSTAP is the extant plan, it is not up to date and the settlement limit at this part of Dungannon does not take account of the current land condition which is not of any particular interest or importance. The SPPS also asks Councils to improve health and wellbeing, support economic growth and safeguard residential and working environs.

This application is for outline planning permission and as such there are no details to be considered in terms of the design and appearance of the buildings; landscaping for the area; parking, turning and servicing areas; storage areas to facilitate the development; levels of the existing and proposed site or any drainage details. These are all matters that may be agreed at Reserved Matter Stage, provided the development is acceptable in principle. Members are advised the application site does not front on to any public road, however full details of an access road to serve the development is being considered under a separate planning application, LA09/2017/0567/F. Those details are of a road that links Carland Road and Coalisland Road and include a footpath that links into the existing public network on Coalisland Road. There is also an opportunity here to link into the periphery cycle route as set out in the Dungannon & South Tyrone Area Plan 2010 and I consider these measures would contribute to a variety of different modes of transport to serve the site.

Members should note this application sits outside the settlement limit for Dungannon, the purpose of the settlement limit is to promote and contain new development and maintain the clear distinction between the countryside and the built up area. Policies in PPS4 allow for the expansion of existing industrial development in the countryside and for major industrial developments in the countryside and where there is a proposed major economic development it is preferred this should be located at the edge of an existing town. The Policy does not define what is meant by 'Major Development', though it tends to favour one operator who is the sole operator on a large site, whereas this proposal has been predicated on the basis of a number of small units for different operators. I do not consider there is any policy in PPS4 that would favour this development, indeed Policy CTY15 of PPS21 would discourage development on the periphery of towns and settlements as it could mar the distinction between the town and the countryside. This would suggest this development should be refused.

I draw member's attention to M/1975/0438 which granted planning permission for a quarry, which has ceased use. The site therefore falls under the definition of an Old Minerals Permission and I am unaware of a restoration plan for the site. New quarry development applications have conditions imposed that require the provision of a restoration plan and these are conditioned. The planning permission for this site did attach a condition that in the event of mining ceasing the

waste materials on the site would be used to fill any areas excavated below ground level and reinstated to the satisfaction of the Planning Authority. This does not provide any specific use on the lands on restoration and as it is now unenforceable, there is no mechanism for the Council to have this site reinstated. The proposal under consideration, in association with LA09/2016/0567/F, will ensure the restoration of the area is carried out and the land can be brought into some use.

Members will be aware, through other applications that have been in front of the committee and reports received in relation to the supply of industrial land, there is a deficit of industrial land to serve the town of Dungannon. This is a material consideration for the committee, particularly as PPS4 sets out a requirement for a Plan to meet economic development needs by designating and zoning an ample supply of land to meet these needs and it is quite clear this has not been done. Members therefore can consider other appropriate lands to serve this need.

I consider this proposal to utilise this area of waste land on the periphery of Dungannon could be considered as an exception to policy CTY15 as the site is well screened from public views due to its valley location with limited public vantage points and the existing buildings on the Coalisland Road and the Carland Road.

Environmental Health Officers have considered noise and odour assessments and while the site is well away from existing sensitive receptors, they have recommended a number of conditions relating to noise to ensure amenity is protected. Land contamination associated with the site has also been considered by EHO and NIEA, they have acknowledged a report in relation to contaminated land on the site and have advised conditions should be attached to address ground fill gas monitoring. GSNi have also raised this as an issue and also identified spoil heaps that may have stability issues. Members are advised the site has a condition of the previous mineral consent that allowed the land to be levelled following completion of the extraction works. There is a planning application for these works and the provision of retaining structures along the south boundary of the site. I consider this will address these concerns. A mine risk assessment has been recommended for the area of the ground to the NE of the site, members are advised this sits outside the application site and as such is not going to impact the proposed site.

The site is not in an area that is at risk of flooding, Rivers Agency have requested additional information in relation to drainage infrastructure, however I consider this can be dealt with at the Reserved Matters stage.

In view of the planning history on the site, the current condition of the land, lack of any other potential to have the site restored and deficit of industrial land in Dungannon, I consider members could allow this site for Industrial purposes. I do not consider approving this development would set a wide ranging precedent as there are a number site specific matters which have been considered:

- the previous use as a quarry with no potential to restore the land
- the existing industrial uses within large industrial buildings at either end of the site, one of which is outside the defined settlement limits for Dungannon
- the need for industrial land in Dungannon.

Members should note there is no requirement to notify the Department under the Planning (Notification of Applications) Direction 2017 as the proposal will not significantly prejudice the implementation of the local development plans objectives and policies.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval with conditions

Conditions:

1. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced. Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.

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

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

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

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

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

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

Reason: To enable the Council to consider in detail the proposed development of the site.

3. 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.

4. Prior to the commencement of any development on the site, an access road linking Coalisland Road and Carland Road shall be provided in accordance with the details approved under LA09/2017/0567/F, or a suitable alternative scheme as may be approved by the Council.

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

5. During the first available planting season following the occupation of any of the development hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. 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 provision of a high standard of landscape.

6. The noise rating level from the development shall not exceed Daytime LAeq, 1 hr 48dB and Night time LAeq, 15min 32dB at the boundary of R4, as per Section 10, Environmental Statement Vol. 1 Part 2 dated January 2017 by AECOM.

Reason: In the interests of residential amenity.

7. No development shall take place in the area around DBH3 (located on Figure 2A Report No. 158/NI/16 by Geotechnical Environmental Services Limited, contained within Targeted Generic Quantitative Risk Assessment dated January 2017 Job No. A101640 by WYG Environmental and Planning (Northern Ireland) Limited).

Reason: To protect the environment and occupants of any proposed development.

8. Development around the area of DBH3 (located on Figure 2A Report No. 158/NI/16 by Geotechnical Environmental Services Limited, contained within Targeted Generic Quantitative Risk Assessment dated January 2017 Job No. A101640 by WYG Environmental and Planning (Northern Ireland) Limited shall be reassessed for the presence of ground gas in line with up to date requirements for Ground Gas monitoring and mitigation.

Reason: To protect the environment and occupants of any proposed development.

9. In the event that previously unknown contamination is discovered, falling outside the scope of the remediation scheme, development on the Site shall cease pending submission of a written report which appropriately investigates the nature and extent of that contamination and reports the findings and conclusions of the same and provides details of what measures will be taken as a result of the contamination for the prior written approval of Planning department (in consultation with the Environmental Health Department of Mid Ulster District Council).

Reason: To protect the environment and occupants of any proposed development.

10. Any remediation scheme shall be validated in order to ensure and verify that the remediation scheme has been implemented in accordance with the scheme and the objectives have been met; substantiating information shall be submitted to Planning department (in consultation with the Environmental Health Department of Mid Ulster District Council in the form of a written validation report, for prior approval.

Reason: To protect the environment and occupants of any proposed development.

11. The applicant shall have full regard to all relevant and current guidance and standards during the remediation and validation processes and shall incorporate such detail within any report submissions required to be submitted for prior approval by Planning department (in consultation with the Environmental Health Department of Mid Ulster District Council).

Reason: To protect the environment and occupants of any proposed development.

Informative:

1. When making this decision the Council has taken into consideration environmental information within the terms of the Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015.

Signature(s)

Date:

ANNEX	
Date Valid	11th October 2017
Date First Advertised	26th October 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2016/1155/PAN Proposal: Recontouring site to form required levels. Redevelopment of existing brickyard site to provide industrial and warehousing serviced sites and association parking. Temporary car park for holding of vehicles. extension and alterations to existing factory new site road with right turning lane and alterations to existing public highway Address: Old Brick Site, 48 Coalisland Road, Dungannon, Decision: PANACC Decision Date: Ref ID: LA09/2017/1407/O Proposal: Construction of industrial and commercial units on serviced sites Address: Site to be developed located on lands between A29 Cookstowb Road/Rossmore Road and 48 Coalisland Road, Dungannon, Decision: Decision Date: Ref ID: LA09/2017/0567/F Proposal: Extension to existing factory to provide additional production space and office accommodation, engineering works to re-contour ground levels and other ground works including retaining structure to provide serviced industrial and commercial sites. Construction of a new service road and associated right hand turning lane including realignment of Rossmore Road.	

Address: Lands at and between 48 Coalisland Road and 11 Cookstown Road, Dungannon (Former Tyrone Brick Works Site) including lands at Rossmore Road and Cookstown Road.,

Decision:

Decision Date:

Ref ID: LA09/2016/0807/PAD

Proposal: Industrial Estate

Address: Coalisland Road, Cookstown Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/1974/0438

Proposal: MINERAL EXTRACTION

Address: ROSSMORE, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1992/6045

Proposal: To Centralize Administration Accommodation Plant No 4. Coalisland Road Dungannon

Address: Plant No 4. Coalisland Road Dungannon

Decision:

Decision Date:

Ref ID: M/1976/057701

Proposal: PLAYING FIELD AND CHILDREN'S PLAY AREA

Address: DRUMCOO, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1993/0670

Proposal: Erection of 6 No Floodlights.

Address: DRUMCOO PLAYING FIELDS, OAKS ROAD, DUNGANNON.

Decision:

Decision Date:

Ref ID: M/2006/2026/Q

Proposal: Re-development

Address: Tyrone Brick Limited Plant 5, Cookstown Road, Dungannon

Decision:

Decision Date:

Ref ID: M/1990/0182

<p>Proposal: 2 X 12 Ton Propane Storage Vessels Address: PLANT 5 (TYRONE BRICK), CARLAND ROAD, DUNGANNON. Decision: Decision Date:</p> <p>Ref ID: M/1998/0186 Proposal: Installation of 4 (Four) No. 12 Tonne Gas Vessels Address: REDLAND TILES AND BRICK LTD 48 COALISLAND ROAD DUNGANNON Decision: Decision Date:</p> <p>Ref ID: M/1989/0102 Proposal: Three 3.15 ton LPG Tanks Address: TYRONE BRICK PLANT 5 CARLAND ROAD, DUNGANNON Decision: Decision Date:</p> <p>Ref ID: M/1976/0577 Proposal: PLAYING FIELDS AND PLAY AREA Address: DRUMCOO, DUNGANNON Decision: Decision Date:</p>
<p>Summary of Consultee Responses NIEA – information to be attached re land contamination DFI Roads – access to be from new road EHO Mid Ulster Council – noise conditions and gas monitoring to be carried out Rivers Agency – drainage scheme to be agreed HED – no impact on listed building or archaeology, consider retaining chimneys and offices HSENI – no longer COMHAS SES – unlikely to have significant impact on designation features INI – support</p>
<p>Drawing Numbers and Title</p>
<p>Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0246/O	Target Date: 14/9/18
Proposal: Outline Planning Permission for residential development, with open space, access, landscaping, new roundabout and associated site works.	Location: Lands to the rear of 40 Ballyronan Road adjoining Kilronan School and to the rear of No's 35-57 & 65-75 Killowen Drive Magherafelt BT45 6EW.
Referral Route: Major application.	
Recommendation:	Approval
Applicant Name and Address: Acheson & Glover 127 Crievehill Road Fivemiletown BT75 0SY	Agent Name and Address: Alan Patterson Design LLP Darragh House 112 Craigdarragh Road Helen's Bay BT19 1UB
Executive Summary:	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Advice and Guidance	Shared Environmental Services	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Statutory	NI Water - Strategic Applications	Advice
Statutory	NIEA	Content

Representations:

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

Details of the Proposal:

Outline Planning Permission for residential development, with open space, access, landscaping, new roundabout and associated site works in accordance with Planning Policy Statement 7 (PPS7): Quality Residential Environments.

Characteristics of the Site and Area:

The site is located within the development limits for Magherafelt as defined within the Magherafelt Area Plan 2015. Located between the Ballyronan and Aughrim Roads access to the site is proposed from the Ballyronan Road with the construction of a new roundabout, at the junction of the Ballyronan Road and Meadowbank roads. The site is currently in use as agricultural land with some evidence of dumping of hard core from the adjacent concrete works. Land form is gently rising land in a north westerly direction. Land use beyond the site boundaries are industrial, commercial, retail including petrol filling station and residential to the north with concrete works, council depot and school to the south. Apart from Ballyronan Road the remaining land use beyond the site boundary is agricultural.

Relevant Site Histories:

The only recent relevant planning history on site is LA09/2017/1105/PAN which was deemed acceptable on 4/10/17 and LA09/2017/1102/PAD.

Representations:

No representations received from press notice or neighbourhood notification. Consultation with DfI Roads, Northern Ireland Water, Environmental Health Department, DfI Rivers, Shared Environmental Services and Northern Ireland Environment Agency has raised no concerns subject to conditions and informatives.

Planning Assessment of Policy and other Material Considerations:

The site is located within the limit of development for Magherafelt as defined by the Magherafelt Area Plan 2015 (MAP). MAP identifies part of the site to be within residential zoning MT05 and part of the site, including access within white land. Planning Policy Statement 7 (PPS 7): Quality Residential Environments applies. As this application is for outline permission there is no requirement for detailed proposals however the required concept plan has been submitted. The concept plan sets out an approach to the site development in general terms only and it may not be the only concept available for the land. In my opinion the proposal respects the surrounding context, character and topography in terms of layout, scale and proportions. No features archaeological or built heritage have been identified, and identified landscape features will be protected and integrated in a suitable manner into the overall design and layout of the development by way of condition; adequate provision is made for public open space and private open space as well as landscaped areas can be dealt with by condition. The movement pattern can support walking and cycling, meets the needs of people whose mobility is impaired, provides adequate and convenient access to public transport and will incorporate traffic calming measures; adequate and appropriate provision can be made for parking; the design of the development will be required to draw upon the best local traditions of form, materials and detailing; the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and it can be designed to deter crime and promote personal safety. During the processing of the application it was acknowledge that contaminated land exists within the site, however requested reports were assessed by both NIEA and Environmental Health and the conditions attached below will in my opinion deal with mitigation requirements.

Other Policy and Material Considerations:

Planning Policy Statement 8 (PPS8): Open Space, Sport and Outdoor Recreation is a material consideration for this proposal. The Concept Plan indicates, in general terms those issues to be

considered in the development of the site and open space provision has been identified as a part of the concept.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015

The potential impact of this proposal on Special Protection Areas, Special Areas of Conservation and Ramsar sites has been assessed in accordance with the requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site. The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 7: (PPS7): Quality Residential Environments. is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area, no other issues have been identified.

Neighbour Notification Checked	Yes
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Recommendation:

I recommend that planning permission is granted subject to conditions.

Conditions:

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Mid Ulster 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: Time Limit

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

Reason: To enable Mid Ulster Council to consider in detail the proposed development of the site.

3. The development shall incorporate such a mix of dwelling types and such a range of unit sizes as may be approved by the Council.

Reason: To provide a comprehensive mix of housing units in accordance with the provision of Planning Policy Statement 7: Quality Residential Environments.

4. All existing trees, shrubs and hedges/natural screening on the boundaries of the site shall be permanently retained unless otherwise agreed in writing with the Council. If any such tree, shrub or hedge is removed, uprooted, destroyed, dies or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species shall be planted at the same place during the next planting season, unless the Council gives its written consent to any variation.

Reason: To ensure the development integrates in a satisfactory manner into the locality.

5. The development shall include delineated areas of private and public open space (the public open space comprising not less than 10% of the total site area), incorporating planted areas, play areas and informal recreational areas, laid out and maintained in accordance with a Landscape Scheme, comprising planting details including species, size at time of planting, siting and planting distances with a programme of planting. The Scheme shall also include a Management and Maintenance Schedule which includes the long term objectives, performance indicators and management responsibilities for all landscaped areas, including privately owned domestic gardens, where they are used as an integral part of the overall landscaping scheme. Trees and shrubs dying within 5 years of planting shall be replaced with trees and shrubs similar in size to that dying. The Landscape Scheme shall be submitted to and agreed with the Council at Reserved Matters stage and the details shall be carried out as agreed.

Reason: To ensure that there is a satisfactory standard of open space provided and maintained in perpetuity in accordance with the provisions of Planning Policy Statement 8 (PPS8) - Open Space, Sport and Outdoor Recreation.

6. The open space areas referred to in condition 5 above shall be managed in perpetuity by a Management Company the details of which shall be submitted to and agreed with the Council at reserved matters stage.(See informative no 2).

Reason: To ensure that the open space provision is managed in perpetuity in accordance with Planning Policy Statement 8 (PPS8) Open Space, Sport and Outdoor Recreation.

7. No dwelling shall be occupied in the proposed development until the Landscape Scheme referred to in Condition 5 above has been agreed in writing by the Council.

Reason: To ensure that there is provision for the long-term maintenance of common open space.

8. No development including site clearance works, lopping, topping or felling of trees, trucking machinery over tree roots, shall take place until full details of both and hard and soft landscape works have been submitted to and approved in writing by the Mid Ulster Council and these works shall be carried out as approved. These details shall include: proposed finished levels/existing and proposed contours/means of enclosure.

Reason: To ensure the provision of amenity afforded by appropriate landscape design.

9. Prior to the commencement of any other development on the site, hereby approved the developer shall submit to the Mid Ulster Council details of all boundary treatments defining both the site boundary and the curtilage of each unit and receive approval in writing. The boundary treatments shall be constructed as per the approved drawing(s) and provided prior to the occupation of any unit within the development.

Reason: To ensure that boundary treatments are provided in a timely manner to assist in the provision of a quality residential environment in accordance with Planning Policy Statement PPS 7 - Quality Residential Environments.

10. The development shall not be occupied until a written remediation scheme for the site is undertaken to ensure that the site is suitable for its intended development end-use. Verification documentation shall be submitted in the form of a verification report and agreed with Planning Department (in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency). The report shall describe all the remediation and monitoring works undertaken and shall demonstrate the effectiveness of the works in managing and remediating all the risks posed by contamination.

Reason: To ensure there is no risk to the occupants of the development as a result of land contamination.

11. A written validation report shall be submitted to ensure and verify that the remediation scheme has been implemented in accordance with the scheme and the objectives have been met; substantiating information shall be submitted to Planning department (in consultation with the Environmental Health Department and the Northern Ireland Environment Agency (NIEA)) in the form of a written validation report, for prior approval.

Reason: To ensure there is no risk to the occupants of the development as a result of land contamination.

12. In the event that previously unknown contamination is discovered, falling outside the scope of previous assessment and remediation scheme, development on the Site shall cease, pending submission of a written report. The report shall appropriately investigate the nature and extent of that contamination and present the findings and conclusions of the same additionally providing details of the appropriate measures to be taken as a result of the contamination, for the prior written approval of Planning Department (in consultation with the Environmental Health Department and the Northern Ireland Environment Agency).

Reason: To ensure there is no risk to the occupants of the development as a result of land contamination.

13. Any remediation scheme required under Condition above shall be validated in order to ensure and verify that the remediation scheme has been implemented in accordance with the scheme and the objectives have been met; substantiating information shall be submitted to Planning department (in consultation with the Environmental Health Department) in the form of a written validation report, for prior approval.

Reason: To ensure there is no risk to the occupants of the development as a result of land contamination.

14. There shall be no deviation/ amendment/s to the design of the remediation scheme without the prior written approval of Planning Department (in consultation with the Environmental Health Department and the Northern Ireland Environment Agency). Written details of any proposed amendment/s shall be forwarded to Planning department prior to works being commenced on the site.

Reason: To ensure there is no risk to the occupants of the development as a result of land contamination.

Private Streets Determination:

The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Department for Infrastructure 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). It relates to Drawing No. 02 Rev 3 bearing the date stamp 15/02/17.

15. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.
The development shall be in accordance with the requirements of the Departments Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the

Council shall determine the width, position and arrangement of the streets associated with the development and the land to be regarded as comprised in those streets.

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

16. No other development hereby permitted, shall be commenced, until the road junction improvements on Ballyronan Road have been completed in accordance with detailed drawings to be submitted to and approved by the Council at Reserved Matters stage.

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.

17. Detailed drawings of the junction improvement at Ballyronan Road shall be submitted to the council for consideration and approval under the Private Streets (Northern Ireland) Order 1980 as amended by the Private Street9 Amendment) (Northern Ireland) Order 1992.

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.

18. The road junction improvements at Ballyronan Road shall be as generally indicated on the Drawing No 03 bearing the date stamp 16 February 2018. The Council may attach to any 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). Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges.

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.

19. The internal residential road network shall be constructed in accordance with a layout to be submitted to and approved by the Council at Reserved Matters Stage to ensure that the road network as determined under the Private Streets Order does not prejudice vehicular linkage to the adjacent lands within the zoned MT05 and MT22 lands.

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

20. No Works shall commence on the development hereby approved until a Stage 2 Safety Audit in respect of the road improvement works on Ballyronan Road has been submitted to and approved by the Planning Authority at Reserved Matters Stage and on completion of the Works, the Stage 3 and Stage 4 Safety Audits shall be completed in accordance with the Design Manual for Road and Bridges procedures.

Reason: In the interest of road safety.

21. A 5 metre wide maintenance strip as indicated on drawing no 07(rev 2) shall be retained and protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development.

Reason: to ensure the future maintenance of the undesignated watercourse.

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. Your attention is drawn to the Minister's Statement in January 1996 on the Quality Initiative. A high standard of design, layout and landscaping is required and you are therefore, advised to discuss and agree with the Council, a comprehensive design scheme which sets out the broad details of the scheme and the process by which it was conceived, prior to the submission of a further application in accordance with the publication "Creating Places: achieving quality in residential developments".

3. The design concept plan drawing no 07(rev 2) submitted 17th October 2018 is considered to be generally acceptable for the development of the site. The Concept Plan submitted may not be the only concept design that would be considered acceptable to the Council. If the developer wishes to discuss alternative proposals, then the Council will enter into discussions based on PPS7 - Quality Residential Environments, PPS8 - Open space, Sport and Outdoor Recreation and other relevant publications.

4. Environmental Health Department comment:

1. Full regard shall be given to all relevant and current guidance and standards during any additional investigation and monitoring works and the remediation and verification processes. Such detail shall be incorporated within any reports required to be submitted prior to approval by Planning Department in consultation with Mid Ulster District Council and the Northern Ireland Environment Agency.

2. The applicant and their consultant are advised to have full regard to the Council Guide to Interested Parties, Development of Land Affected by Contamination (March 2006) (available from Mid Ulster District Council), which provides details of the information which the Council expects to be contained within reports submitted for approval (including checklist documentation for remediation and verification stages).

3. Building control approval is required to confirm, that given the ground conditions, they are satisfied that all necessary precautions have been taken to protect the occupants and properties from contamination risks.

4. Care should be exercised in the removal of contaminated sources from the site, during site clearance, to ensure that the existing contamination load within soil and ground water is not increased. All hazardous waste removed from the site should be removed to a waste facility licensed to receive hazardous waste.

5. Whilst Mid Ulster District Council Environmental Health Department has assessed the application based on the information provided, it ultimately is the responsibility of the developer, to ensure the development is safe and suitable for the purpose for which it is intended and that any unacceptable risks from contamination will be successfully addressed through remediation. He/she should recognise the importance of ensuring thorough and competent professional assistance supported by professional indemnity insurance.

5. Northern Ireland Water comment:

Public water supply within 20m of your proposal, the Developer is required to consult with NIW to determine how the proposed development can be served. Application to NIW is required to obtain approval to connect.

Foul sewer within 20m of your proposal, the Developer is required to consult with NIW to determine how the proposed development can be served. Application to NIW is required to obtain approval to connect.

Surface water sewer within 20m of your proposal, the Developer is required to consult with NIW to determine how the proposed development can be served. Application to NIW is required to obtain approval to connect.

Available Capacity at receiving Waste Water Treatment Works.
Existing watermain crossing site

Existing sewer crossing site;

No construction to be made, trees planted or other obstruction made within

- 3m (or 1.5 times the depth whichever is greater) of sewers, OR
- 4m (or 1.5 times the depth whichever is greater) of watermains <350mm diameter or 8m of watermains of 350mm diameter or greater.

A diversion may be necessary. Consultation with NIW is required at an early design stage to prevent disturbance/ damage to existing sewers / watermains and in the interest of public safety.

The applicant is advised to contact NIW Waterline on 03457 440088 or waterline@niwater.com, upon receipt of this consultation to discuss any areas of concern.

Application forms and guidance are also available via these means.

If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Waterline on 03458 770002.

Although it has been determined above if NIW infrastructure is within 20m of your proposal, consultation with NIW is required at an early design stage by means of a Predevelopment Enquiry to obtain details of the availability of existing water and sewerage infrastructure and how their proposal may be serviced.

No connection should be made to the public sewer from 23rd May 2016, in accordance with the Water and Sewerage Services (Northern Ireland) Order 2006 (as amended Water and Sewerage Services Act (Northern Ireland) 2016), until the mandatory Sewer Adoption Agreement has been authorised by NIW.

All services within the development should be laid underground, in the interests of visual amenity

Development shall not be occupied until the onsite works have been completed in accordance with the drainage details submitted to and approved by the relevant authority, in the interest of public health

Development shall not be occupied until surface water drainage works on-site and off-site have been submitted, approved and constructed by developer and the relevant authority, to safeguard the site and adjacent land against flooding and standing water.

Statutory water regulations are in force, which are designed to protect public water supplies against contamination, undue consumption and misuse. All internal plumbing installation must comply with the current Water Supply (Water Fittings) Regulations (Northern Ireland).

Applicants should contact NI Water's Water Fittings Regulations team via waterline@niwater.com if they have any queries.

6. Rivers Agency comment:

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

The Strategic Flood Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial flood plain.

FLD 2 Protection of Flood Defence and Drainage Infrastructure

An undesignated watercourse flows along the Northern boundary of the site. Under 6.32 of the policy a 5m maintenance strip is required. It should be marked up on a drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development. Clear access and egress should be provided at all times.

FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains

The Drainage Assessment indicates the storm water system will be adopted by NIW, therefore NIW will be responsible for checking design calculations, adoption and maintenance of the system. Therefore DfI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

It should be brought to the attention of the applicant that the responsibility for the accuracy, acceptance of the Drainage Assessment and implementation of the proposed flood risk measures rests with the developer and their professional advisors. (refer to section 5.1 of PPS 15).

Under the terms of Schedule 6 of the Drainage (Northern Ireland) Order 1973 the applicant must submit to DfI Rivers, for its consent for any proposal to carry out works which might affect a watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc. Failure to obtain such consent prior to carrying out such proposals is an offence under the aforementioned Order which may lead to prosecution or statutory action as provided for. Planning Informatives

Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site: - such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements

may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.

Where an undesignated watercourse flows through or adjacent to a development site, it is strongly advised that a working strip of appropriate width is retained to, in future, enable riparian landowners to fulfil their statutory obligations/responsibilities.

7. Northern Ireland Environment Agency comments:

1. The purpose of the attached Conditions above is to ensure that any site risk assessment and remediation work is undertaken to a standard that enables safe development and endues of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.

2. RU recommends that the applicant consult with the Water Management Unit in NIEA regarding any potential dewatering that may be required during the development including the need for a discharge consent. Discharged waters should meet appropriate discharge consent conditions. Further information can be obtained from:
<https://www.daera-ni.gov.uk/articles/regulating-water-discharges>

3. The applicant should ensure that the management of all waste materials onto and off this site are suitably authorized through the Waste and Contaminated Land (Northern Ireland) Order 1997, the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Water Order (Northern Ireland) 1999. Further information can be obtained from:

<https://www.daera-ni.gov.uk/articles/waste-management-licensing>
<https://www.daera-ni.gov.uk/topics/waste/waste-management-licensing-exemptions>
<https://www.daera-ni.gov.uk/articles/regulating-water-discharges>

4. The applicant should ensure to comply with the Waste Duty of Care with respect to any waste materials taken onto or taken off site. Article 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997 imposes a duty of care on anyone who handles controlled waste. When waste transfers from one person to another a waste transfer note and/or hazardous waste consignment note must be completed, signed and kept by the parties involved. The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 set out the requirement to complete waste transfer notes for waste movements and the Hazardous Waste Regulations (Northern Ireland) 2011 set out the requirements to complete hazardous waste consignment notes for the transfer of hazardous waste.

Further information can be obtained from:

<https://www.daera-ni.gov.uk/articles/duty-care>
<https://www.daerani.gov.uk/articles/hazardous-waste>

5. In accordance with Article 5 of the Waste and Contaminated Land (Northern Ireland) Order 1997 a Waste Management Duty of Care Code of Practice for Northern Ireland June 2016 required by law exists. This code of practice provides practical guidance to everyone subject to the Waste Duty of Care. In Northern Ireland the primary responsibility for duty of care sits with

the waste producer and therefore they should ensure they make the appropriate checks as set out in the Code of Practice for Northern Ireland in relation to waste produced. Further information can be obtained from: <https://www.daera-ni.gov.uk/publications/waste-management-duty-care-code-practice>

6. Any contaminated soils and soil type materials require its hazardous properties to be firstly classified and assessed in accordance with Technical Guidance WM3 – Waste Classification: Guidance on the classification and assessment of waste (1st edition v1.1, May 2018). Classifying a waste correctly is a legal requirement that helps to ensure that the waste is managed appropriately. NIEA therefore expects businesses to be able to demonstrate that any waste classifications based on sample results are reliable and as such conducted in line with Appendix D: Waste Sampling of Technical Guidance WM3. Further information can be obtained from:

<https://www.gov.uk/government/publications/waste-classification-technical-guidance>
Land, Soil & Air

7. Regulation 17 of the Waste Regulations (Northern Ireland) 2011 imposes a duty on waste operators to comply with the European Waste Hierarchy. After a hazardous waste assessment is completed then the options for managing this waste should be further considered taking into account the European Waste Hierarchy. The applicant should be reminded that Landfill Waste Acceptance Criteria (WAC) are not relevant to a hazardous waste classification. A WAC test will not identify whether a waste is hazardous or non-hazardous.

Before a waste can be disposed of, it must be classified as being either hazardous or non-hazardous, using the characterisation assessment and analysis described by the WM3 Technical Guidance. Then, if a waste hierarchy assessment determines that disposal to landfill is the appropriate disposal option for the waste, chemical WAC testing must be undertaken for wastes destined for inert, stable nonreactive hazardous or hazardous classes of landfill. Further information can be obtained from:

<https://www.gov.uk/government/publications/waste-classification-technical-guidance>

8. Should the materials be classified as hazardous waste then this material will need to be consigned off site as hazardous waste. NIEA should receive the waste consignment notices 72 hours in advance of any movements off site and waste materials moved off site only by a registered carrier (i.e. ROC permitted). Further information can be obtained from:

<https://www.daera-ni.gov.uk/articles/hazardous-waste#toc-3>
<https://www.daera-ni.gov.uk/publications/guide-consigning-hazardous-waste>

9. Certain types of work with asbestos in soils and construction and demolition (C&D) materials can only be done by those who have been issued with a licence by HSENI. This is work which meets the definition of 'licensed work with asbestos' in Regulation 2(1) of the Control of Asbestos Regulations (Northern Ireland) (2012) (the Regulations). These Regulations can be viewed at:

<http://www.coralenvironmental.com/wpcontent/uploads/The-Control-of-Asbestos-Regulations-NI-2012.pdf>

The Regulations and the accompanying Approved Code of Practice and guidance (The Control of Asbestos Regulations 2012: Managing and working with asbestos (L143)) apply to all work with asbestos, including managing the risks related to exposure to asbestos from work with asbestos contaminated soil or C&D materials in addition to CL:AIRE's Industry Guidance entitled: Control of Asbestos Regulations 2012,

Interpretation for managing and working with asbestos in soils and C&D materials 2016 that can be viewed at: <https://www.claire.co.uk/projects-and-initiatives/asbestos-in-soil>

All works associated with asbestos contaminated land must be carried out by competent persons so that the site reports can be relied upon and works completed in compliance with the Regulations and in a manner likely to be minimise consequential risks.

The applicant should be fully aware of their responsibilities in ensuring that this waste is suitably dealt with in line with legislative requirements. This waste should not be reused onsite without an appropriate waste management authorisation (if applicable) from NIEA Waste Management Licensing Team.

The site may be hydrologically connected to Lough Neagh and Lough Beg Area of Special Scientific Interest (ASSI), Lough Neagh and Lough Beg RAMSAR site and Lough Neagh and Lough Beg Special Protection Area (SPA).

Other Natural Heritage Interests.

NED recommends that compensatory landscape planting is of native species and tree and/or hedge removal is carried out outside the bird breeding season. If MUDC grants planning permission to the proposed development NED recommends that the following informatives are attached to a decision notice:

Other Informatives.

Bats

The applicant's attention is drawn to The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat;
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to;
 - (i) affect the local distribution or abundance of the species to which it belongs;
 - (ii) Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - (iii) Impair its ability to hibernate or migrate;
- d) Deliberately to obstruct access to a breeding site or resting place of such an animal;
- e) To damage or destroy a breeding site or resting place of such an animal.

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT72JA. Tel. 028 905 69605.

Badger.

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*). It is also an offence to intentionally or recklessly: damage or destroy, or obstruct access to, any structure

or place which badgers use for shelter or protection; damage or destroy anything which conceals or protects any such structure; disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of badger on the site, all works must cease immediately and further advice sought from the Wildlife Inspector's Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 905 69605.

Birds.

The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild bird; or
- take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- obstruct or prevent any wild bird from using its nest; or
- take or destroy an egg of any wild bird; or
- disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or
- disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence. It is therefore advised that any tree, hedge loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season including 1st March to 31st August, unless pre-clearance surveys show an absence of breeding birds.

Additional Information.

NED recommends that the applicant should refer and adhere to the precepts contained in DAERA Standing Advice Note No. 4. Pollution Prevention Guidance, 5. Sustainable Drainage Systems and 11. Discharges to the Water Environment.

NED recommends that all survey works comply with British Standard 42020:2013, which came into effect on 31 August 2013. The British Standard provides recommendations and guidance for those engaged in planning and development, whose work might affect or have implications for conservation, or the enhancement of biodiversity.

NED should be re-consulted if new information is received (such as ecological surveys requested following application of relevant Standing Advice/ Biodiversity Checklist, relevant objection letters, or if there are specific natural heritage issues which arise following a site visit by MUDC to enable us to carry out a more detailed assessment.

Signature(s)

Date:

ANNEX	
Date Valid	16th February 2018
Date First Advertised	8th March 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 1 Meadowbank Drive Magherafelt BT45 6EQ The Owner/Occupier, 10 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 100 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 101 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 102 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 103 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 104 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 105 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 106 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 107 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 108 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 109 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 11 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 110 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 111 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 112 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 113 Killowen Drive Magherafelt Londonderry The Owner/Occupier, 114 Killowen Drive Magherafelt BT45 6DS The Owner/Occupier, 115 Killowen Drive Magherafelt Londonderry	

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The Owner/Occupier, 98 Killowen Drive Magherafelt BT45 6EQ The Owner/Occupier, 99 Killowen Drive Magherafelt Londonderry Sharon Saunderson Education Authority, Operations and Estates, Ballee Centre, Ballee Road West, Ballymena, BT42 2HS The Owner/Occupier, Kilronan School 46 Ballyronan Road Magherafelt BT45 6EN The Owner/Occupier, Maxol Filling Station 40 Ballyronan Road Magherafelt BT45 6EN The Owner/Occupier, Meadowbank Leisure Centre Ballyronan Road Magherafelt BT 45 6EN The Owner/Occupier, Recycling Depot 48 Ballyronan Road Magherafelt BT45 6EN	
Date of Last Neighbour Notification	17th May 2018
Date of EIA Determination	27th March 2018
ES Requested	No
Planning History None.	
Summary of Consultee Responses See above	
Drawing Numbers and Title	

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

Drawing No. 02
Type: Detailed Drawing Plans
Status: Submitted

Drawing No. 03
Type: Detailed Drawing Plans
Status: Submitted

Drawing No. 04
Type: Miscellaneous
Status: Submitted

Drawing No. 05
Type: Miscellaneous
Status: Submitted

Drawing No. 06
Type: Housing Concept Plan
Status: Submitted

Drawing No. 07(Rev 2)
Type: Proposed Plans
Status: Submitted

Drawing No. 08
Type: Miscellaneous
Status: Submitted

Drawing No. 09
Type: Site Appraisal or Analysis
Status: Submitted

Drawing No. 10
Type: Miscellaneous
Status: Submitted

Drawing No. 11
Type: Miscellaneous
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department: N/A
Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0450/F	Target Date:
Proposal: Vary condition 5 of Planning Permission M/2010/0065/F in respect of access arrangements	Location: Lands adjacent to 33 Drumflugh Road Benburb.
Referral Route: 3 No. objections received	
Recommendation:	Approval
Applicant Name and Address: Mr & Mrs Ken Crozier 33 Drumflugh Road Dungannon	Agent Name and Address: Clyde Shanks Ltd 5 Oxford Street Belfast BT1 3LA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	6
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

DfI Roads were consulted and provided consultation response to this application. Three letters of objection have been received. All issues have been considered within the determination below.

Characteristics of the Site and Area

The application site is located at lands adjacent to No.33 Drumflugh Road, Benburb which is approximately 2.4 miles from the settlement of Benburb. The application relates specifically to the access on to the public road from the shared laneway used by a number of dwellings. The site is located in the countryside, outside any defined settlement limits identified in the Dungannon and South Tyrone Area Plan 2010. The land is not subject to any special designations or zonings contained within the extant area plan and the topography of the site is

relatively flat. The surrounding context is rural, characterised by predominantly green fields and dispersed single dwellings.

Description of Proposal

This proposal is to vary condition 5 of planning permission M/2010/0065/F.

M/2010/0065/F granted planning permission for the erection of a dwelling and garage which was approved on 14th September 2010 and has subsequently been built. Condition 5 of M/2005/0065/F planning permission states

“The area within the visibility splays and any forward sightline shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby is occupied and shall be retained and kept clear thereafter.

Reason: To ensure there is satisfactory means of access on the interest of road safety and the convenience of road users.”

Planning Assessment of Policy and Other Material Considerations

Under Section 54 of the Planning Act (Northern Ireland) 2011, the Council must only consider the question of the condition subject to which planning permission was granted. The principle of a dwelling and garage on lands adjacent to No.33 Drumflugh Road has been established under M/2010/0065/F and subsequently implemented. Therefore as the permission remains live, consideration can be given to amend the conditions of this planning approval.

The Council served a Breach of Condition Notice (BCN) relating to Condition 4 and 5 of Planning Permission reference M/2010/0065/F on the applicant on the 19th July 2016. In response to the BCN, the applicant has submitted this Section 54 planning application to vary Condition 5 of M/2010/0065/F asserting that the required vehicular access was in place prior to the commencement of any works and therefore Condition 4 was discharged. The applicant seeks to amend Condition 5 of M/2010/0065/F to reduce the visibility splay from 2.4m x 70m to 2.0m x 70m (as detailed in Drawing No. 02 date stamped 29th March 2018).

Under Section 54 of the Planning Act in determining this application the Council should only consider whether

- a) Permission should be granted subject to a Condition differing from that of Condition 5; or
- b) Permission should be granted subject to the same conditions as those subject to which the previous permission was granted.

Four objection letters have been received however one was subsequently withdrawn. The three objection letters remaining have been considered and raised the following issues:

- Condition 4 of permission M/2010/0065/F was not implemented prior to the expiration of planning permission therefore as permission was not lawfully implemented this subject application is invalid.
- The applicant did not own the land required to provide the visibility splay to the western side of the laneway and the applicant has not received permission from the land owner to carry out required works to achieve the necessary visibility splay.
- The applicant has intensified the use of the laneway therefore should bear the cost for providing the necessary access arrangements.
- DfI Roads have stated the reduced splay sought by the applicant (2mx70m) would prejudice the safety of road users.

- The reduction in visibility standards will not be permitted simply because the applicant does not control the required area as stated in DCAN 15.
- Details of damage to hedging and deterioration of the grass verge at the access and justification for the erection of timber post fencing.

The application before the Council to be considered is for the variation of Condition 5 of planning permission M/2010/0490/F. The implementation of Condition 4 is a matter for the Enforcement team to be considered under the Breach of Condition Notice and any further concerns relating to the legality of the implementation of a Dwelling and Garage granted under planning permission M/2010/0065/F is also a matter for Enforcement. The ownership of land, permission of land owners and damage of hedging are not planning matters rather civil/legal matters to be resolved outside the remit of planning. It is noted the applicants request for a reduction in visibility splay takes account of the erected wooden posts along third party land to the LHS of the access. However, the timber post fencing is not subject to this application, therefore although details regarding the legality and necessity of the fencing has been provided in objection letters this is outside the remit of this planning application. It is recognised the applicant has intensified the use of the laneway and the purpose of this application is to agree a satisfactory means of access to be permanently retained. With respect the objectors comments on Dfl Roads, all consultation responses from Dfl Roads will be considered in greater detail below as well as the guidance set out in DCAN15.

Dfl Roads were consulted on this application and originally provided a response on 04/06/18 stating the proposed reduction in the 'x' distance is not permissible in this instance. The applicant submitted additional information in response to this (date stamped 08/06/18) which Dfl Roads were again consulted. Dfl Roads provided a response to the additional information on 13/06/18 stating "without the control of the visibility splay to the west, the existing access is substandard and the proposal would result in a potential danger to road users, therefore the department recommends refusal". On the 30/07/18, the agent submitted a statement requesting clarification from Dfl Roads on a number of points with respect the erection of the timber posts at the access. However, Dfl Roads advised on 22/08/18 that they were currently awaiting legal opinion from Departmental solicitor's branch as the matters raised in the agent's statement are now part subject to a Judicial Review notice and they were not in a position to respond at this stage.

In the interests of progressing the application to determination, I consulted Dfl Roads again on 18/10/18 querying the minimum visibility standards Dfl Roads would accept in this case. Dfl Roads responded on 05/11/2018 advising a refusal to vary condition 5 of Planning Permission M/2010/0065 to reduce sightlines to an absolute minimum of 2.0 x 70 metres may be difficult to sustain at a Planning Appeal hearing. Subsequent to this, it was advised by Dfl Roads that 2.0m x 7.0 is acceptable albeit consent from a third party landowner would be required in order to maintain the required access standards. DCAN 15 Table A – Access with Traffic flow up to 60 vpd states "The minimum x-distance is normally 2.4m. Where traffic speeds on the priority road are below 60 kph (37 mph), the minimum x- distance is 2.0m. On other roads the x-distance may be reduced to 2.0m only where danger is unlikely to be caused". As acknowledged in Dfl Roads response on 05/11/18, the speeds are greater than 37mph, however there is an existing access and Dfl Roads are not aware of any recorded history of road traffic collisions. Therefore, if it is not considered danger is likely to be caused by the variation of the condition the absolute minimum visibility splays of 2.0 * 7.0m could be applied in accordance with DCAN 15. On discussion with Senior Colleagues, it has been agreed Condition 5 of planning permission M/2010/0065/F could be varied in this instance in so far as the visibility splay to the west is reduced to 2.0 x 7.0 metres (as detailed on Drawing No. 02 date stamped 29th March 2018) without prejudicing road safety or significantly inconveniencing the flow of traffic. Therefore, I recommend the approval is granted for the proposed variation of the condition.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:
Approve, subject to the below amended condition.
Conditions: 1. The area within the visibility splays and any forward sightlines shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and the vehicular access, including any visibility splays and forward sight lines, shall be in accordance with Drawing No.02 date stamped 29 th March 2018, to be retained and kept clear thereafter. Reason: To ensure there is satisfactory means of access in the interest of road safety and the convenience of road users.
Signature(s)
Date:

ANNEX	
Date Valid	29th March 2018
Date First Advertised	12th April 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 29 Drumflugh Road, Benburb, Tyrone, BT71 7QG, Gary Millar 31 Drumflugh Road, Dungannon, Tyrone, Northern Ireland, BT71 7QG The Owner/Occupier, 31 Drumflugh Road, Dungannon, Tyrone, BT71 7QG, Gary Millar 31, Drumflugh Road, Dungannon, Tyrone, Northern Ireland, BT71 7QG The Owner/Occupier, 35 Drumflugh Road, Benburb, Tyrone, BT71 7QG, The Owner/Occupier, 37 Drumflugh Road, Benburb, Tyrone, BT71 7QG, Clifford Aiken Email Address Clifford Aiken Email Address Dermot Monaghan MBA Planning, 4 College House, Citylink Business Park, Belfast, BT12 4HQ Clifford Aiken Clifford Aiken	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0450/F Proposal: Vary condition 5 of Planning Permission M/2010/0065/F in respect of access arrangements Address: Lands adjacent to 33 Drumflugh Road, Benburb., Decision: Decision Date:	

Ref ID: M/2001/0036/RM

Proposal: Single Storey Dwelling & Domestic Garage

Address: Site Adjacent to 29 Drumflush Road, Benburb, Dungannon

Decision:

Decision Date: 21.02.2001

Ref ID: M/2005/1331/O

Proposal: Proposed dwelling & garage.

Address: Adjacent to 33 Drumflugh Road, Dungannon

Decision:

Decision Date: 23.05.2007

Ref ID: M/1995/0205

Proposal: Erection of Replacement Dwelling

Address: ADJACENT TO 37 DRUMFLUGH ROAD DUNGANNON

Decision:

Decision Date:

Ref ID: M/2000/1034/O

Proposal: Site for dwelling

Address: Site adjacent to 29 Drumflugh Road Benburb Dungannon

Decision:

Decision Date: 01.12.2000

Ref ID: M/2010/0065/F

Proposal: Erection of dwelling and garage.

Address: Adjacent to 33 Drumflugh Road, Dungannon

Decision:

Decision Date: 28.09.2010

Ref ID: M/2006/2170/F

Proposal: Retention of access to dwelling and resiting of existing pier, wall and fence

Address: 31 Drumflugh Road, Dungannon.

Decision:

Decision Date: 22.06.2007

Ref ID: M/2009/0351/F

Proposal: Erection of replacement dwelling and garage, amended siting from previous approval M/2008/0122/RM

Address: 33 Drumflugh Road, Dungannon

Decision:

Decision Date: 17.08.2009

Ref ID: M/2008/0122/RM

Proposal: Erection of replacement dwelling and garage
 Address: 33 Drumflugh Road, Dungannon
 Decision:
 Decision Date: 22.04.2008

Ref ID: M/2009/0846/F
 Proposal: Erection of replacement dwelling and garage (revised house type from previous approval, M/2009/0351/F)
 Address: 33 Drumflugh Road, Dungannon
 Decision:
 Decision Date: 19.11.2009

Ref ID: M/2004/2086/O
 Proposal: Replacement dwelling and garage
 Address: 33 Drumflugh Road, Dungannon
 Decision:
 Decision Date: 16.02.2005

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
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Status: Submitted

Drawing No. 01

Type: Road Access Plan

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

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:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th Dec 2018	Item Number:
Application ID: LA09/2018/0485/F	Target Date: 23 rd July 2018
Proposal: Proposed dwelling and domestic garage	Location: 100m to the rear of 98 Tulnacross Road Dunamore, Cookstown
Referral Route: Refusal is recommended	
Recommendation:	REFUSE
Applicant Name and Address: Mr John Mc Gurk 44 Glenarmy Road Cookstown BT80 9LU	Agent Name and Address:
Executive Summary: Despite several requests, the applicant has failed to provide additional information to demonstrate that this proposal complies with policy CTY 10 of PPS 21, policy NH 5 of PPS 2 and policy AMP 2 of PPS 3. The proposal also fails to comply with policies CTY 13 and CTY 14 of PPS 21 in respect of the scale and massing of the proposed dwelling.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Shared Environmental Services	Substantive Response Received
Statutory	NIEA	Advice
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	Rivers Agency	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

There have been no objections to this proposal from any third party. DFI Roads and NIEA and have requested the submission of additional information. This has not been forthcoming from the applicant.

Characteristics of the Site and Area

The application site is a 0.6 hectare parcel of agricultural land located 100m to the rear of number 98 Tulnacross Road, Dunnamore. It is outside the development limits of any settlement defined in the Cookstown Area plan 2010. The site sits a similar level to the public road. Its Southern boundary is defined by a low gorse hedge row. The Eastern boundary is defined by low level hedgerow and intermittent semi mature trees. There is also a small watercourse running along this Eastern boundary. The Western boundary is defined by thicker hedgerow and semi mature trees and the Northern boundary is undefined on the ground. There is a small farm complex located just to the North West of the site.

This area is generally rural in character with an undulating topography. It has a low and dispersed settlement pattern with the predominant form of development being single dwellings and farms. The Ballinderry Rivers flows just to the South of the site. There is some surface water flooding experienced in the Western portion of the site. This is also an area of archaeological potential (TYR 028:014).

Description of Proposal

This is a full application for a dwelling and garage submitted on the 9th April 2018 - the day after outline approval, I/2012/0267/O on the site was due to expire. The outline approval was granted on the 9th April 2013.

Planning Assessment of Policy and Other Material Considerations

Planning History

Outline approval was granted for a dwelling and garage on this site on the 9th April 2013 under I/2012/0267/O. It was granted under policy CTY 10 for farm dwellings.

Previous permissions were granted for a dwelling on this site under I/2000/0036/O, I/2003/0277/O and I/2007/0746/RM. These permissions all lapsed.

On the 25th September 2006 approval was granted under I/2006/0473/Art28 for the non-compliance of condition number 1 of I/2003/0277/O. This was in relation to an extension of time.

At the time of submitting I/2012/0267/O the agent submitted a letter with the application explaining that the previous permissions lapsed as their father had mistakenly thought permission was up in 2012. It was then that the DOE explored the farm case under which I/2012/0267/O was approved.

To the immediate North West of the site approval has also been granted for a dwelling under LA09/2015/0167/O and LA09/2015/1053/RM.

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

- Cookstown Area Plan 2010
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 2 – Natural Heritage
- PPS 3 – Access, Movement and Parking
- PPS 6 – Planning, Archaeology and The Built Heritage
- PPS 15 – Planning and Flood Risk
- PPS 21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Cookstown Area Plan 2010. It is not subject to any area plan designations. As such, existing rural planning policy should be applied (ie) PPS 21

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for dwellings on Farms. It does not present any change in policy direction therefore existing rural policy applies (ie) CTY 10 of PPS 21

PPS 2 – Natural Heritage

This site is hydrologically connected to the Upper Ballinderry River SAC/ASSI. Natural Environment Division have been consulted and have advised that they have no concerns in relation to impacts on designated sites. They have however advised that they do not have enough information to fully assess the impacts of the proposal on protected species and priority habitats. I have asked the applicant to submit a biodiversity check list on the 25th June 2018, the 25th July 2018 and the 2nd October 2018. To date the applicant has failed to provide it. As such, the proposal as it stands, fails to comply with policy NH 5 of PPS 2 – Habitats, Species or Features of Natural Heritage Importance.

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the creation of a new access onto the Tulnacross Road. DFI Roads have been consulted and have requested amendments in relation to the provision of 2.4m x 90m splays along with Drainage Measures. This information has been requested on the 25th June 2018, the 25th July 2018 and the 2nd October 2018. To date the applicant has failed to provide it. On the basis of this lack of information it is not possible to determine if this proposal will not prejudice road safety or inconvenience traffic flow. As such, it fails to comply with policy AMP 2 of PPS 3.

PPS 6 – Planning, Archaeology and The Built Heritage

This site encroaches on an area of archaeological potential (TYR 028:014). Historic Environment Division have been consulted and have no objections to the application

PPS21 – Sustainable Development in the Countryside**Policy CTY 10 – Dwellings on Farms**

Members are advised that the applicant has failed to provide any farm details with this application so that it can be assessed under this policy. This information was requested on the 25th July 2018 and again on the 2nd October 2018.

Policy CTY 13 – Integration and Design

This site sits at a similar level to and is set back from the public road. An appropriately scaled dwelling would not appear overly prominent in the local landscape. The Western boundary is vegetated and will provide a certain degree of integration. The remaining boundaries offer little in terms of integration or enclosure. The land further to the South of the site rises gently and will provide a slight back drop when viewing the house from the Tulnacross Road. There is a small shed in the NE portion of the site which was accepted as a building on the farm under

I/2012/0267/O. In my opinion, given the modest scale and massing of the shed, it offers little in terms of integration. With regards to the dwelling design, I do have concerns about the scale and massing. A bungalow would be a better option and would not appear as dominant on this site. Whilst there was no ridge height condition attached to the most recent outline approval, the previous outline on the site had a 5.5m ridge height condition. It is also noted that the immediate area is characterised by bungalows. The double garage and connected walkway also give the impression of a much larger house that dominates this site.

Policy CTY 14 – Rural Character

I am of the view that the proposed dwelling would be unduly prominent due to its design and massing. I have no concerns regarding build up or ribboning.

PPS 15 – Planning and Flood Risk

As acknowledged earlier in this report, part of the site is located within a predicted flood area as indicated in the surface water flood map. Rivers Agency have been consulted and have advised that, although a Drainage Assessment is not required by policy, it is up to the applicant to appoint a professional to carry out their own assessment of flood risk and mitigation. I have not yet requested that applicant do this.

Other Material Planning Considerations

As acknowledged earlier in this report, this application was submitted the day after the outline approval expired. In this instance, it would be very harsh not to hold any weight to the outline approval just because it had expired by a mere 1 day. Members are however advised that the onus is on the applicant to provide all relevant information so that a recommendation can be made on the proposal. This has not been forthcoming.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal is recommended

Refusal Reasons

1. The proposal is contrary to policy CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has failed to provide any farm details for the Council to assess whether the farm business is active and established.

2. The proposal is contrary to Policy NH 5 of Planning Policy Statement 2, Planning and Nature Conservation in that it has not been demonstrated that the development will not have an adverse impact on priority habitat and priority species.

3. The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3, Access, Movement and Parking in that it has not been demonstrated that the proposed new access will not prejudice road safety or inconvenience traffic flow.

4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the proposed building is inappropriate for the site and its locality in terms of its scale and massing.

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

Signature(s)

Date:

ANNEX

Date Valid	9th April 2018
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Date First Advertised	26th April 2018
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Date Last Advertised	
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Details of Neighbour Notification (all addresses)

The Owner/Occupier,
100 Tulnacross Road Cookstown Tyrone
The Owner/Occupier,
98 Tulnacross Road Cookstown Tyrone

Date of Last Neighbour Notification	23rd April 2018
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Date of EIA Determination	
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ES Requested	Yes /No
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Planning History

Ref ID: LA09/2018/0485/F

Proposal: Proposed dwelling and domestic garage

Address: 100m to the rear of 98 Tulnacross Road, Dunamore, Cookstown,

Decision:

Decision Date:

Ref ID: I/2003/0277/O

Proposal: Renewal of outline planning permission (I/2000/0036) for a dwelling

Address: 100 Metres to the rear of 98 Tulnacross Road, Dunamore, Cookstown

Decision:

Decision Date: 19.06.2003

Ref ID: I/2000/0036/O

Proposal: Site for dwelling

Address: 100m to the rear of 98 Tulnacross Road Cookstown

Decision:

Decision Date: 03.04.2000

Ref ID: I/1995/0369

Proposal: Proposed Bungalow

Address: 100M TO REAR OF 98 TULNACROSS ROAD COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2006/0473/ART28

Proposal: Site for dwelling - non compliance of condition 1 (time) of I/2003/0277/O

Address: 100 Metres to the rear of 98 Tulnacross Road, Dunamore, Cookstown

Decision:

Decision Date: 25.09.2006

Ref ID: I/1979/0290

Proposal: RETIREMENT FARM BUNGALOW

Address: DUNAMORE, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1979/029001

Proposal: FARM RETIREMENT BUNGALOW

Address: DUNAMORE, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/2007/0746/RM

Proposal: 1 No. Dwelling House

Address: 100 Metres to the rear of 98 Tulnacross Road, Dunamore, Cookstown.

Decision:

Decision Date: 18.02.2008

Ref ID: I/2012/0267/O

Proposal: 1 no dwelling house

Address: 100 metres to the Rear of 98 Tulnacross Road, Dunamore, Cookstown,

Decision: PG

Decision Date: 10.04.2013

Ref ID: LA09/2015/0167/O

Proposal: Dwelling and garage in accordance with policy CTY10 of Planning Policy Statement 21

Address: Approx 100m South East of no 100 Tulnacross Road, Cookstown,

Decision: PG

Decision Date: 24.07.2015

Ref ID: LA09/2015/1053/RM

Proposal: Proposed dwelling and garage

Address: Approx 100m South East of 100 Tulnacross Road, Cookstown,

Decision: PG

Decision date: 22.12.201

Summary of Consultee Responses

DFI Roads, Rivers Agency and NIEA and have requested the submission of additional information. SES have recommended condition to be placed on any approval. HED have no objections to the proposal.

Drawing Numbers and Title

Drawing No. 04

Type: Proposed Elevations

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

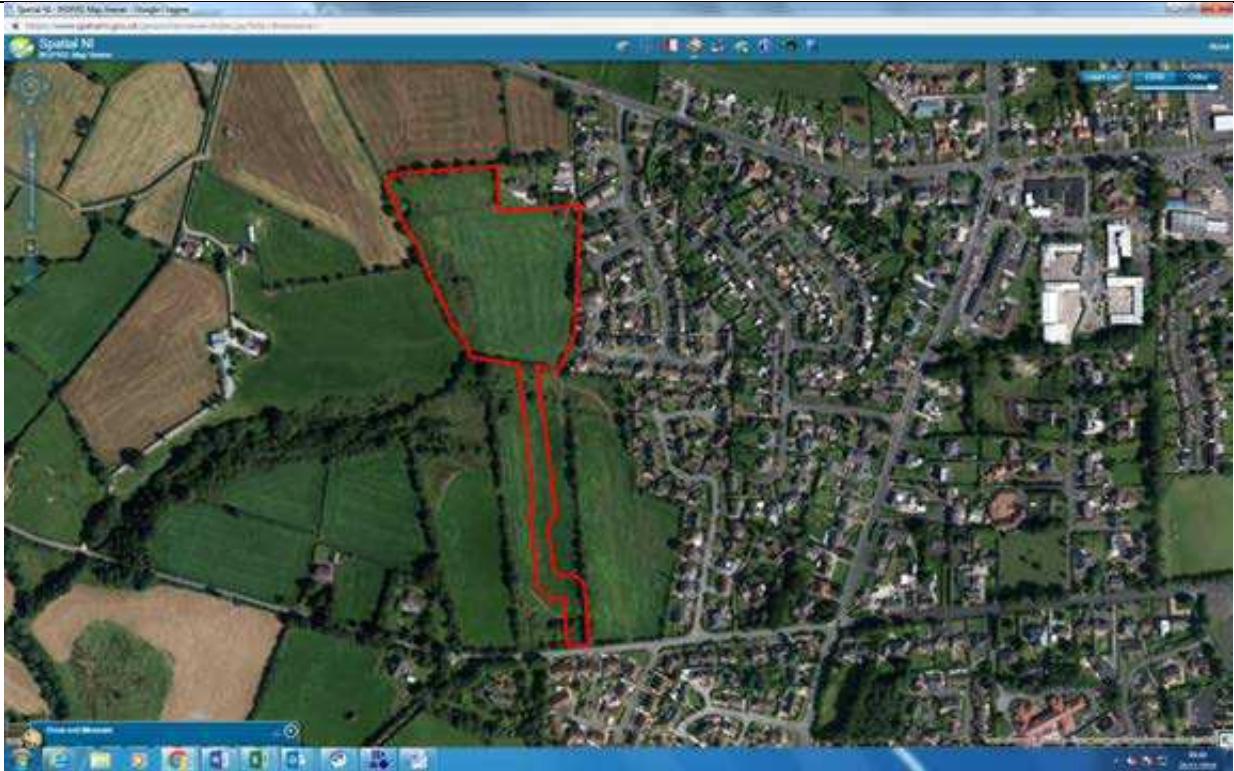


Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0518/O	Target Date: 31/7/18
Proposal: Residential development comprising approx. 48 no dwelling units, access, amenity space, landscaping and ancillary site works	Location: Lands to the West of Forthglen and adjacent to No's 130 and 130A Orritor Road and including access on to Tullagh Road Cookstown
Referral Route: Major application.	
Recommendation:	Refusal
Applicant Name and Address: JAMDAC Developments Ltd 116 Deerpark Road Toomebridge BT41 3SS	Agent Name and Address: Clyde Shanks 5 Oxford Street Belfast BT1 3LA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	NIEA	Advice
Advice and Guidance	Planning Mid Ulster District Council	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Advice and Guidance	Shared Environmental Services	Substantive Response Received
Statutory	Rivers Agency	Advice
Statutory	NIEA	Advice
Statutory	Historic Environment Division (HED)	Content
Statutory	NI Water - Multi Units West - Planning Consultations	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
<p>Details of the Proposal:</p> <p>This is an outline application for residential development comprising approx. 48 no dwelling units, access, amenity space, landscaping and ancillary site works in compliance with Planning Policy Statement 21(PPS 21): Sustainable Development in the countryside.</p>	
<p>Characteristics of the Site and Area:</p> <p>The site is located within the limit of development for Cookstown and is on part of the zoned housing phase 2 land (H26), as defined in the Cookstown Area Plan 2010 (CAP). Access to the site is proposed from the Tullagh Road through agricultural land, which is zoned housing phase 1 land (H17) in the Cookstown Area Plan 2010. The proposed site comprises two fields the southern field being much larger than the northern field. Thick and significant hedging define the site boundaries. Post and wire fencing defines the boundary between the two fields. Both fields are relatively flat with the land sloping down towards a small stream which defines the site's western boundary. Land use beyond the site is residential to the east and part of the northern boundary with agricultural lands to the west and south. A small cul-de-sac within the adjacent Forthglen estate abuts the site in the north eastern corner.</p> <p>Relevant Site Histories:</p> <p>The following relevant planning history has been identified.</p> <p>I/2005/0020/F; Housing Development of 97 dwellings and 0.5 ha open space; approved 11/1/08. Approval on adjacent site through which access is proposed, this permission has now lapsed.</p> <p>LA09/2017/1592/PAN; Proposed residential development and access; PAN acceptable 11/6/18.</p> <p>Representations:</p> <p>No representations received from press notice or neighbourhood notification. Consultation with Department for Infrastructure, Northern Ireland Environment Agency, Environmental Health Department, Northern Ireland Water, Rivers Agency and Historic Environment Division has raised no concerns subject to conditions and informatives. Consultation with Development Plan section of Mid Ulster Council has raised objection to the proposal.</p>	
<p>Planning Assessment of Policy and other Material Considerations:</p> <p>As noted above the subject lands are part of the zoned phase 2 lands within the Cookstown Area Plan 2010 (H26). The access to the site is proposed through zoned phase 1 residential lands (H17), which currently does not have the benefit of planning permission. The Cookstown Area Plan 2010 describes phase 2 zoned lands as follows;</p> <p><i>Phase 2 Housing Zonings:</i></p> <p><i>77.5 hectares of land are zoned as Phase 2 housing. This land will be safeguarded for housing, but will not be released for development, either in part or in full, prior to a housing land review in 2005. Until the review is completed, planning permission will only be granted on Phase 2 land for single dwellings that are in accordance with Green Belt policies under Policy GB/CPA 1 of A</i></p>	

Planning Strategy for Rural Northern Ireland or any subsequent revisions, and that do not prejudice comprehensive development. Exceptions may be made for health and educational uses where a need has been established.

Following the review, land in Phase 2 identified for release will be subject to the controls under Phase 1. The residual land will continue to be protected under the provisions of Phase 2.

The review concluded that no phase 2 land should be released. In the interim Planning Policy Statement 21 (PPS21) became the operable policy for lands designated Phase 2. Therefore the appropriate policies against which to consider the proposed development are contained within Planning Policy Statement 21 'Sustainable Development in the Countryside' (PPS 21). Policy CTY 1 of PPS 21 states that there are a range of types of developments which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. Policy CTY 15 relates to this proposal within the countryside.

Policy CTY 15 is entitled 'The Setting of Settlements' and states that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. In its justification and amplification section, the policy states that landscapes around settlements have a special role to play in maintaining the distinction between town and country, in preventing coalescence between adjacent built-up areas and in providing a rural setting to the built up area. The principle of drawing a settlement limit is partly to promote and partly to contain new development within that limit and so maintain a clear distinction between the built-up area and surrounding countryside

The applicant has argued that due to a number of factors housing land availability is limited within Phase 1 lands, these factors include land locked, no interest in developing and limited development of approved sites. In addition information from local estate agents and comment received during the community consultation process has welcomed the proposal.

Within the Cookstown Area Plan 2010 approximately 70.6 hectares of land were zoned for Phase 1 housing. In preparation of the new Local Development Plan (LDP) the published Preferred Options Paper (POP) identified that at 2015 just under 26% of Phase 1 zoned housing lands had been developed. Even given for some additional building since 2015 it is evident that there remains a significant amount of Phase 1 land to be developed. The Cookstown Area Plan identifies that the need to release Phase 2 land, either in part or in full is dependent on the uptake of Phase 1 land. The uptake of Phase 1 land would not appear to justify the release of Phase 2 at this time.

The forthcoming draft Plan Strategy will provide details of how housing growth will be allocated across the district, but the actual zoning of such land will form part of the Local Policies Plan, which is the second stage of the plan making process. Phase 1 and Phase 2 lands will be continue to be reviewed as part of the plan making processing, and it is too early to say what the outcome of this will be.

Other Policy and Material Considerations:

This application is approximately one third of the total zoning and as such may if approved give rise to additional applications for development of not only the remaining portion of the zoning but also other Phase 2 lands identified with the plan. This again would in my opinion prejudice the development plan process and the emerging LDP.

This application being categorised as major has complied with the requirements of the Planning (Development Management) Regulations (Northern Ireland) 2015

This planning application was considered in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). Having considered the nature, scale and location of the project it is concluded that, subject to mitigation conditions the proposal will not have an adverse effect on site integrity of any European site.

Neighbour Notification Checked

Yes

Recommendation:

I recommend that planning permission is not granted for the following reason.

Refusal Reason

1. The proposal is contrary to the Cookstown Area Plan 2010 in that:

- The land is zoned as phase 2 housing land which is safeguarded for housing but will not be released for development either in part or in full outside of a review process and to date no need has been established to release the land. and
- The proposed housing development is contrary to policies CTY 1 and CTY 15 of Planning Policy Statement 21 (PPS21) in that the development is outside the development limit of Cookstown and would, if permitted, constitute urban sprawl in a rural area.

Signature(s)

Date:

ANNEX	
Date Valid	16th April 2018
Date First Advertised	3rd May 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 10 Tullagh Road Cookstown Tyrone The Owner/Occupier, 12a Tullagh Road Cookstown The Owner/Occupier, 12b Tullagh Road Cookstown The Owner/Occupier, 130 Orritor Road Cookstown Tyrone The Owner/Occupier, 130a Orritor Road Cookstown The Owner/Occupier, 14a Tullagh Road Cookstown The Owner/Occupier, 14b Tullagh Road Cookstown The Owner/Occupier, 16a Tullagh Road Cookstown The Owner/Occupier, 16b Tullagh Road Cookstown The Owner/Occupier, 2 Tullagh Drive Cookstown Tyrone The Owner/Occupier, 20 Tullagh Road Cookstown Tyrone The Owner/Occupier, 2a Tullagh View Cookstown The Owner/Occupier, 39 Forth Glen Cookstown Tyrone The Owner/Occupier, 40 Forth Glen Cookstown Tyrone The Owner/Occupier, 41 Forth Glen Cookstown Tyrone The Owner/Occupier, 42 Forth Glen Cookstown Tyrone The Owner/Occupier, 43 Forth Glen Cookstown Tyrone The Owner/Occupier, 44 Forth Glen Cookstown Tyrone The Owner/Occupier, 61 Forth Glen Cookstown Tyrone The Owner/Occupier, 62 Forth Glen Cookstown Tyrone	

The Owner/Occupier, 63 Forth Glen Cookstown Tyrone The Owner/Occupier, 79 Forth Glen Cookstown Tyrone	
Date of Last Neighbour Notification	24th April 2018
Date of EIA Determination	24th April 2018
ES Requested	No
Planning History Ref ID: LA09/2017/1592/PAN Proposal: Proposed residential development and access Address: Lands to the West of Forthglen, adjacent to 130 and 130A Orritor Road and including access onto Tullagh Road, Cookstown, Decision: Decision Date: Ref ID: LA09/2017/0142/PAD Proposal: Housing development of approx. 97 dwellings and 0.5 hectares open space Address: Land at H17, opposite and north of 12a to 16b Tullagh Road, Cookstown, Decision: Decision Date:	
Summary of Consultee Responses As above	
Drawing Numbers and Title	

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 04

Type: Road Access Plan

Status: Submitted

Drawing No. 05

Type: Housing Concept Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department: N/A

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4th December 2018	Item Number:
Application ID: LA09/2018/0720/F	Target Date:
Proposal: Change of house design to dwelling previously approved under application M/2006/1299/RM (amended design)	Location: Approximately 60m east of 31 Mullaghmoyle Road Coalisland Co Tyrone.
Referral Route: Objections	
Recommendation:	Approve
Applicant Name and Address: Declan Dorrity 7 Brackaville Road Coalisland BT71 7NH	Agent Name and Address: Building Design Solutions 76 Main Street Pomeroy BT70 2QP
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



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

One letter of objection has been received and a number of issues have been raised which will be addressed later in my report.

Description of proposal

This is a full planning application for change of house design to previously approved application M/2006/1299/RM.

Characteristics of site and area

There is an existing retaining wall located along the NE and NW boundaries. A mature tree lined hedgerow defines the SE boundary, with an access point, grass verge, access point and some vegetation along the roadside boundary.

There is a ribbon of development at roadside to the west consisting of a row of 4 dwellings. Land in the area is mostly agricultural. Coalisland lies to the south.

Planning Assessment of Policy and Other Material Considerations

Development Plan

Dungannon and South Tyrone Area Plan 2010- The site is located on phase 2 housing land within the development limits of Coalisland. The area plan states that phase 2 housing land in Coalisland will be safeguarded for housing, but will not be released for development, either in part or in full, prior to a housing land review in 2005. Until the review is completed, planning permission will only be granted on Phase 2 land for single dwellings that are in accordance with Green Belt policies.....or any subsequent revisions, and do not prejudice comprehensive development.

The housing review that took place in 2005 indicated that there was sufficient land within Phase 1 to accommodate future housing needs for Coalisland, without the release of phase 2 land. Green Belt policies have now been superseded by the provisions of Strategic Planning Policy Statement and PPS21 Sustainable Development in the Countryside, therefore this proposal will be assessed under the rigours of these policies.

Key Planning Policy

M/2003/0567/O- proposed dwelling and garage, permission granted 21st July 2003.

M/2006/1299/RM- proposed dwelling and garage, permission granted 25th August 2006 for a sizable 2 storey dwelling and garage.

3rd Party Representations

An objection has been received by the adjacent property, No. 21 Colliers Lane and issues raised include;

- detrimental impact on privacy and amenity;
- foundations on site do not reflect the position granted under permission M/2006/1299/RM;
- no site levels;
- proximity of proposed dwelling will pose as a fire hazard;
- does not respect existing building line;
- design does not respect rural design.

The letter ends by stating that they do not object to the site being developed but would like some design changes to alleviate adverse impacts.

Key Planning Policy

Strategic Planning Policy Statement- SPPS advises that the policy provisions of PPS21 Sustainable Development in the Countryside are retained.

There are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 Development in the Countryside.

There is no case provided with this proposal that would meet any of the circumstances for a dwelling in the countryside under policy CTY1.

In this case it is argued by the applicant/agent that development on site has lawfully commenced and therefore permission M/2006/1299/RM can be completed as approved. To support their claim that development was commenced on time an invoice from Dungannon and South Tyrone Borough Council Building Control was provided which shows that building foundations were inspected 6/4/2007. M/2006/1299/RM was still live at this time.

There is dispute however that the foundations were not built in the correct position. This point was also raised by the objector. On my assessment of this it is clear that there is overlap of where the dwelling was granted and where the foundations were put in place. There is about a 4-5m overlap but in my view the foundations are not in the location as granted, they are some 4m further back on the site. Given the overlap, it can be argued that a good proportion of the foundations have been implemented in the correct position. The access position granted under M/2006/1299/RM is also not in place therefore pre-commencement conditions 3 and 4 have not been implemented. While an access point has been created this is not in the approved position and therefore lawful commencement is under dispute.

Whilst it cannot be assumed lawful development has started, it should be noted that at the time of the original permission the land was also phase 2 housing land. However the policy tests were stricter in that green belt policy was being exercised on phase two land, and the 2003 permission (M/2003/0567/O) did not impose any burdensome conditions such as occupancy. In light of this history and the clear intension of the applicant to start development, albeit that it did not accord with the plans I am of the view that a sympathetic approach can be adopted to this application. I am satisfied that if this house is permitted it will not prejudice the development of the zoning.

Originally the proposed garage was provided as an iatrical single storey front projection to the front of the dwelling. I agree with the objector that this disrupted the existing clearly defined building line of existing dwellings along Colliers Lane. Plus with the absence of levels it was difficult to see if this proposal would have a detrimental impact on adjacent residential amenity in terms of over dominance or overshadowing. Plus, the gable of the main part of the dwelling would be set back from the adjacent property thus creating potential for over dominance to the neighbouring property.

Through negotiation on design issues with the applicant/agent the garage was removed from the front of the dwelling to the rear and the main bulk of the dwelling moved forward on the site, gable to gable with the adjacent sizable 2 storey property. Levels were marked and the finished floor level of the proposed dwelling is approx. 1m below that of the adjacent property and the overall ridge height will be almost 2m lower when taking site level difference into account. In my view the amendments show that the proposed dwelling will not have a detrimental impact on the neighbouring property. There will be no overlooking windows and the positioning of the garage means that the proposed dwelling will also have protected rear amenity space, free from overlooking. There is sufficient separation distance and difference in levels for there to be any detrimental impacts of over dominance or overshadowing. In my view, the amended plans are acceptable in terms of respecting existing and proposed residential amenity.

The neighbours raise concern that proximity of the proposed dwelling will pose as a fire hazard. No evidence has been provided to qualify this concern. Dwellings in urban areas have been granted in closer proximity, sometimes attached and no concern have been raised over fire safety concerns. This point is not determining in this instance.

The proposed dwelling is of considerable size, 9m ridge height from finished floor level and 2 large front projections. There are elements of traditional rural design, the window openings are mostly vertical and there is a good solid to void ratio between window openings and wall

coverage. While this design not normally something that I would allow in the the countryside, given the size of the dwelling that can be built on site, the large dwelling with large square glazed windows on the adjacent site, and the fact that the future for this area is envisaged to be urbanised it is my view that the proposed design is considered acceptable for this site and locality in this instance.

Other Material Considerations

DfI Roads have no objections to this proposal subject to 2m by 70m sight splays in both directions.

The site is not subject to flooding and there are no land contamination issues to consider.

Given the separation distance and orientation of the proposed dwellings I am satisfied that there will not be any significant impact on the amenities of adjacent dwellings.

Neighbour Notification Checked

Yes

Summary of Recommendation:

All issues raised by the objector have been dealt with in my report and it is my view that planning permission should be granted subject to the following conditions.

Conditions

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

Reason: Time Limit.

2. The existing trees, as indicated in drawing No 02 rev1 date received 1st October 2018, shall be permanently retained unless otherwise agreed by Mid Ulster Council in writing.

Reason: To ensure the development integrates into the countryside.

3. During the first available planting season after the commencement of development on site, all trees indicated in drawing No 02 rev1 date received 1st October 2018, shall be planted as shown and be permanently retained thereafter unless otherwise agreed by Mid Ulster Council in writing.

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

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

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

5. The finished floor level of the dwelling and levels within the site shall be in accordance with levels shown on the approved plans No 02 rev1 and 04 date stamped 1st October 2018, unless otherwise agreed in writing by Mid Ulster Council.

Reason: In the interests of visual amenity and to ensure the development integrates into the countryside.

6. The vehicular accesses, including visibility splays of 2m by 70m in both directions onto the public road and any forward sight distance shall be provided in accordance with Drawing No. 02 rev1 bearing the date stamp 1st October 2018, within 3 months from the date of this permission and shall be permanently retained thereafter. 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.

Informatives

1.This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.

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.

3.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.

Signature(s)

Date:

ANNEX	
Date Valid	24th May 2018
Date First Advertised	7th June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) Stephen & Eileen Leonard & Murtagh 21 Colliers Lane, Coalisland, Tyrone, BT71 4GP The Owner/Occupier, 21 Colliers Lane, Coalisland, Tyrone, BT71 4GP, The Owner/Occupier, 25 Colliers Lane, Coalisland, Tyrone, BT71 4GP,	
Date of Last Neighbour Notification	3rd October 2018



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th December 2018	Item Number:
Application ID: LA09/2018/0725/O	Target Date: 6 th September 2018
Proposal: Bungalow and garage	Location: Adjacent to 7a Keady Road, Upperlands
Referral Route: Refusal recommended	
Recommendation:	Refuse
Applicant Name and Address: Miss C O'Kane 7a Keady Road Upperlands BT46 5SX	Agent Name and Address: Russell Finlay 350 Hillhead Road Knockcloghrim Magherafelt BT45 8QT
Executive Summary: Refusal is recommended as the proposal fails to comply with CTY 13 and CTY 14 of PPS21. A dwelling on this site would be unduly prominent. The site lacks established boundary treatment and a dwelling on this site would result in a suburban style build-up of development.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

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

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert for this proposal was placed in local newspapers and adjoining landowners were consulted by letter. To date, no objections have been received.

Characteristics of the Site and Area

The application site is 0.25 hectare parcel of agricultural land cut out of a larger field located adjacent to number 7a Keady Road, Upperlands. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The host field rises from the Keady Road in a NE direction and the application site occupies the highest part of the field. The SW and NW site boundaries undefined on the ground. The Eastern boundary is defined by semi mature vegetation and the NE boundary is defined by a dwelling and outbuilding. To the NW of the site is a detached dwelling along with the foundations for another dwelling. There are a further 3 detached dwellings to the immediate SE of the site.

This area is rural in character with an undulating topography. It has a low, dispersed settlement pattern with the predominant form of development being single dwellings and agricultural outbuildings. This area is not subject to any area plan zonings or designations.

Description of Proposal

This is an outline application for a farm dwelling.

Planning Assessment of Policy and Other Material Considerations

Planning History

A planning application for a farm dwelling on this site (LA09/2015/0024/O) was refused by MUDC on the 06.05.2016. Refusal was based on CTY 1, CTY10, CTY 13 and CTY 14 of PPS 21.

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

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations. As such, existing rural planning policy should be applied (ie) PPS 21

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for dwellings on Farms. It does not present any change in policy direction therefore existing rural policy applies (ie) CTY 10 of PPS 21

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves utilising an existing laneway that is used to access number 7a Keady Road. The existing laneway is paired with another laneway that is used to access numbers 5, 5a and 7 Keady Road. DFI Roads have been consulted and

have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 70m splays and a 70m forward site distance. This can be dealt with by planning condition.

PPS21 – Sustainable Development in the Countryside

Policy CTY 10 – Dwellings on Farms

The farm business is currently active and established for at least 6 years.

According to the P1C form, the owner of the farm business is Mrs Marie O’Kane and the address of the farm business is 4 Dunglady Road, which is approximately 380m to the SE of the application site. DAERA have been consulted and have confirmed that the Business ID has been in existence for the required 6 year period. They have also confirmed that this business has submitted claims in the last 6 years. On the basis of all of this response I am satisfied that the farm business can be considered currently active and established for the purposes of CTY 10. Members are advised that the applicant is Miss C O’Kane, the Granddaughter of Mrs Marie O’Kane.

No dwellings/development opportunities have been sold off the holding within 10 years of the date of application.

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off.

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

The address of the farm business on the farm maps and on the DAERA documentation submitted by the applicant is 4 Dunglady Road. The application site is located some 380m away from this address. The applicant has advised that her father, who resides at 7a Keady Road and her uncle actually farm the land associated with this farm business. Whilst the applicant, her father or uncle are not named on the farm business it would seem reasonable that the applicant’s father and uncle are farming the land for their elderly mother. This would be common practice in rural areas. It would also be reasonable therefore to consider number 7a Keady Road and the ancillary garage as a buildings on the farm. On this basis, a dwelling located on this site could be regarded as clustering with buildings on the farm.

Policy CTY 13 – Integration and Design

This site sits at a higher level than the public road. A dwelling on this site, irrespective of its scale, would read as skyline development and would appear overly prominent in the local landscape. The applicant has stated that they will excavate ground so that the proposed dwelling will not sit on the highest part of the site. This would be a potential solution but more detailed drawings would be required for further assessment (eg) cross sections. The site benefits from only limited natural boundary treatment along the Eastern boundary. New planting would be necessary for the purposes of integration. A dwelling on this site when viewed from the public road would also fail to have any form of acceptable backdrop. This is an outline application and as such design is not a consideration at this stage.

Policy CTY 14 – Rural Character

For the reasons noted above I am of the view that a dwelling on this site would be unduly prominent. From the laneway approach, which is a public vantage point, a dwelling at this location will be visually linked to 5, 5a, 7 and 7a Keady Road. On this basis, a dwelling on this site would

result in a suburban style build-up of development in this particular area and would negatively impact on rural character.

Members are further advised that LA09/2015/0024/O was refused under CTY 1, 10, 13 and 14. This current application is for the same proposal on the same site. Although I have considered the proposal now acceptable in terms of CTY 1 and CTY 10, members are advised that they have previously agreed at Planning Committee that the site was unacceptable in terms of integration and its impact on rural character. The site has not changed in terms of its characteristics since the previous application was issued as a refusal on the 4th May 2016. Members are also advised that I have explained to the applicant that an alternative site is available adjacent to 4 Dunlady Road, which would be more acceptable in terms of its integration qualities. This would require the submission of a new application. The applicant has decided that this alternative is not an option they wish to consider.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal is recommended.

Refusal Reasons

1. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that:

- a dwelling on this site will be a prominent feature in the landscape.
- the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for a dwelling to integrate into the landscape
- a dwelling on this site will fail to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop

and therefore would not visually integrate into the surrounding landscape.

2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- a dwelling would, if permitted, be unduly prominent in the landscape
- a dwelling 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 the rural character of the countryside.

Signature(s)

Date:

ANNEX	
Date Valid	24th May 2018
Date First Advertised	7th June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 5 Keady Road Upperlands Londonderry The Owner/Occupier, 5a Keady Road Upperlands The Owner/Occupier, 7 Keady Road Upperlands Londonderry The Owner/Occupier, 7a Keady Road Upperlands The Owner/Occupier, 9 Keady Road Upperlands Londonderry	
Date of Last Neighbour Notification	5th July 2018
Date of EIA Determination	N/A
ES Requested	N/A
Planning History Ref ID: LA09/2018/0725/O Proposal: Bungalow and garage Address: Adjacent to 7a Keady Road, Upperlands, Decision: Decision Date: Ref ID: LA09/2018/0334/F Proposal: Change of house type with granny annexe and increased site curtilage Address: Adjacent to no. 9 Keady Road, upperlands, Decision: Decision Date: Ref ID: H/1996/0253 Proposal: BUNGALOW AND GARAGE Address: KEADY ROAD GORTEADE UPPERLANDS Decision: Decision Date:	

Ref ID: H/1995/0591
 Proposal: SITE OF BUNGALOW
 Address: ADJ TO 7 KEADY ROAD UPPERLANDS
 Decision:
 Decision Date:

Ref ID: H/2000/0432/F
 Proposal: Dwelling and Garage
 Address: 9 Keady Road Gortead Upperlands Maghera BT46 5SX
 Decision:
 Decision Date: 09.11.2000

Ref ID: H/2004/1314/RM
 Proposal: Erection of dwelling and garage.
 Address: Land in front of 7 Keady Road, Swatragh.
 Decision:
 Decision Date: 16.03.2005

Ref ID: H/2003/0943/O
 Proposal: Site of dwelling.
 Address: Land in front of 7 Keady Road, Swatragh.
 Decision:
 Decision Date: 20.02.2004

Ref ID: H/1991/0491
 Proposal: SITE OF REPLACEMENT FARM DWELLING
 Address: KEADY ROAD UPPERLANDS
 Decision:
 Decision Date:

Ref ID: LA09/2015/0024/O
 Proposal: Dwelling and garage
 Address: Adjacent to 7A Keady Road, Upperlands,
 Decision: PR
 Decision Date: 06.05.2016

Summary of Consultee Responses

DAERA – No objections
 DFI Roads – No objections subject to standard conditions
 EH – No objections

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:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0730/O	Target Date: 07/09/2018
Proposal: Proposed replacement dwelling (Preliminary Ecological Appraisal)	Location: 60 Ferry Road Derryloughan Coalisland Co Tyrone BT71 4QU.
Referral Route: Objection	
Recommendation:	Approve
Applicant Name and Address: E Quinn 60 Ferry Road Derryloughan Coalisland BT71 4QU	Agent Name and Address: AP Mackle 127 Benburb Road Moy Dungannon BT71 7QA
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Representations:

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

Summary of Issues

The objections will be addressed within the main body of my report.

Description of proposal

This is an outline planning application for a replacement dwelling in the countryside.

Characteristics of Site and Area

Located almost 7 km east of Coalisland on the shores of Lough Neagh the site is accessed from Ferry Road along an existing vehicular access. There is an existing single storey dwelling on site which is screened from the public road by existing trees to the SW boundary. The dwelling is set back approx. 300m from Ferry Road. Mature trees define the SE and SW boundaries, and part of the NE boundary.

Land in the area is relatively flat and is used mostly for agricultural grazing. There is some peat extraction in the area and development is defined by dispersed single dwellings and farm holdings. Lough Neagh shore lies approx. 250m to the NE.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon and South Tyrone Area Plan 2010 identifies the site within a rural area. The policy provisions of SPPS and PPS21 apply.

History

No relevant planning history.

3rd party representations

Letters of objection have been received from a Solicitors Office which challenges land ownership. I alerted the applicant/agent to this fact and to address this matter a revised P2 certificate was signed and notice served on the person who is disputing land ownership. Council is happy to proceed on this basis and the land ownership dispute is now a civil matter between the interested parties. Mid Ulster Council does not have the expertise to adjudicate in such matters.

Key Planning Policy and Consideration

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.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Policy CTY3 Replacement Dwellings. There is no conflict between Policy CTY3 of PPS21 and SPPS.

PPS21

CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. From my site visit it is clear that the dwelling is fully intact and is currently lived in. The building to be replaced is not vernacular and does not make an important contribution to heritage, appearance or character of the area and in my view can be replaced.

In all replacement cases proposals for a replacement dwelling will only be permitted where all policy criteria listed in CTY3 can be met.

The first criteria to be met is that the proposed replacement dwelling should be sited within the established curtilage of the existing building, unless either (a) the curtilage is so restrictive that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

The agent/applicant has indicated the location of the proposed dwelling on drawing No. 01 date received 25th May 2018. The siting of the dwelling is located within the established existing curtilage, within a front garden area. Although the area to front of the existing dwelling is rough and not kept as manicured lawn area it still reads as belonging to the curtilage of No. 60 Ferry Road.

Secondly, the overall size of the new dwelling should allow it to integrate into the surrounding landscape and would not have a visual impact significantly greater than the existing building.

This is an outline planning application. The proposed footprint of the dwelling looks to be of similar size to the dwelling it will replace. Due to set back and tree coverage it is my view that the site can take a 7.5m ridge dwelling and this will not result in a greater visual impact than to what currently exists on site. Design can be assessed at Reserved Matters stage.

The third criteria to be met in all replacement cases is that the design should be of a high quality appropriate to its rural setting and have regard to its local distinctiveness. Design can be assessed at Reserved Matters stage.

All services can be provided without significant adverse impact on the environment or character of the locality. No issues have been raised concerning the provision of electricity and water to the site, or, the treatment of sewerage through a septic treatment tank. Environmental Health have no objections to this proposal. The septic treatment tank will require separate agreement from NIEA and this can be covered through planning informative.

Finally, access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic as one dwelling will replace another. There will be no intensification of the existing access onto the public road therefore current access arrangements are acceptable.

PPS2

As this site is located on the shores of Lough Neagh consideration has to be given to potential impacts on this European designated site. NIEA and Shared Environmental Services (SES) were consulted for comment. SES raised no objections on this proposal stating;

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

NIEA required an Ecological Appraisal to be carried out so that all potential impacts can be considered. This was supplied by the applicant/agent on 9th October 2018 and NIEA provided comment on 1st November stating that they are content with the proposal. I am satisfied that this replacement dwelling will not have any detrimental impacts on the environment or protected species or habitat.

Other Considerations

The site is not subject to flooding.

There are no land contamination or human health issues to consider.

The proposal will not have a detrimental impact on any residential amenity as there are no nearby properties.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be granted subject to the following conditions.

Conditions

1. As required by Section 62 of the Planning Act (Northern-Ireland) 2011, application for approval of the reserved matters shall be made to the Local Planning Authority 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: Time Limit.

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

Reason: To enable the Local Planning Authority to consider in detail the proposed development of the site.

3. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan No. 01 date stamp received 25th May 2018 is demolished and all rubble and foundations have been removed and the site restored, unless otherwise agreed in writing by Council.

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

4. All existing trees and hedges located within the area indicated in yellow on drawing No. 01 date stamp received 25th May 2018 shall be permanently retained unless otherwise agreed in writing by mid Ulster Council. All retained trees shall be indicated for retention on a detailed landscaping plan, and shall include species and existing heights.

Reason: To ensure the development integrates into the landscape.

5. A landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be planted. During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by the Local Planning Authority in writing.

Reason: In the interest of visual amenity.

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

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

7. The dwelling hereby permitted shall have a ridge height not more than 7.5m from finished floor level.

Reason: So that the building integrates into the surrounding countryside.

8. The under build of the proposed dwelling shall not exceed 0.45m at any point within its proposed footprint.

Reason: So that the building integrates into the surrounding countryside.

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

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

Signature(s)

Date:

ANNEX	
Date Valid	25th May 2018
Date First Advertised	7th June 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 21 William Street,Dungannon,BT70 1DX Paul Haughey P Haughey And Co,21 William Street, Dungannon, Tyrone, Northern Ireland, BT70 1DX	
Date of Last Neighbour Notification	1st August 2018



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th Dec 2018	Item Number:
Application ID: LA09/2018/0874/O	Target Date: 4 th Oct 2018
Proposal: Proposed site of farm dwelling and garage.	Location: Approx 100m North East of 90 Ballyscullion Road Bellaghy
Referral Route: Refusal Recommended	
Recommendation:	Refuse
Applicant Name and Address: Anne Marie McIvor 89 Ballyscullion Road Bellaghy BT45 8NA	Agent Name and Address: CMI Planners 38 Airfield Road Toomebridge BT41 3SQ
Executive Summary: Proposal fails to comply with Policies CTY 10 and CTY 13 of PPS 21 in that the dwelling will not cluster or visually link with an established group of buildings on the farm.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DAERA - Coleraine	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

There have been no objections to this proposal from any third party.

Characteristics of the Site and Area

The application site is a 0.65 hectare agricultural field located approx. 100m NE of number 90 Ballyscullion Road, Bellaghy. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site sits at the junction of the Ballyscullion Road and Glenvale Road. Its Western boundary, which runs along the Glenvale road is heavily vegetated. Its topography falls steeply from this boundary in an Easterly direction. The Northern and Southern site boundaries are also heavily vegetated and the Eastern boundary is undefined on the ground. There are 2 small tin structures located in the NW portion of the field.

This area is generally rural in character with an undulating topography. It has a low and dispersed settlement pattern. To the SW of the site there is a cluster of development, made up of dwellings and agricultural buildings. To the immediate North and East of the site are detached dwellings.

Description of Proposal

This is an outline application for a farm dwelling. There are no other planning histories on or adjacent to this site to be considered in this assessment.

Planning Assessment of Policy and Other Material Considerations

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

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations. As such, existing rural planning policy should be applied (ie) PPS 21

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for dwellings on Farms. It does not present any change in policy direction therefore existing rural policy applies (ie) CTY 10 of PPS 21

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves creating a new access onto the Ballyscullion Road. DFI Roads have been consulted and have no concerns regarding road safety or traffic flow resulting from this proposal subject to provision of 2.4m x 60m splays and a 60m forward site distance. This can be dealt with by planning condition.

PPS21 – Sustainable Development in the Countryside

Policy CTY 10 – Dwellings on Farms

The farm business is currently active and established for at least 6 years.

DAERA have been consulted and have confirmed that the Farm Business ID has been in existence for the required 6 year period. They have also confirmed that this business has submitted claims in the last 6 years. They have further advised that no claims have been submitted since 2014 and that the site is on land associated with another farm business. This would indicate that the site is now being farmed in con-acre. As such, it is still regarded as being actively farmed, albeit not by the owner of the farm business.

No dwellings/development opportunities have been sold off the holding within 10 years of the date of application.

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off.

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

The address of the farm business is 89 Ballyscullion Road, which is approx. 310m to the SW of the site. Within the application site there are 2 small tin structures which are considered by the applicant as being an established group of buildings on the farm. These structures do not benefit from planning approval. The applicant has submitted dated photographs from google maps to demonstrate that they have been there for more than 5 years. My concern with these photographs is that they do not clearly demonstrate that as a group of buildings, they are established and don't require planning permission in their own right. Notwithstanding this it is my opinion that given their scale and siting (even if they were lawful), a dwelling on this site will not visually link or cluster with them. They are nestled in the extreme NW corner of the field and are almost completely surrounded by vegetation. When travelling along the Glenvale Road there will be no visual linkage between them and the proposed dwelling due to the presence of the road side vegetation. When travelling along the Ballyscullion Road, there will be little appreciation that they even exist. On this basis, a dwelling located on this site cannot be regarded as clustering with buildings on the farm.

Policy CTY 13 – Integration and Design

It is proposed to site a dwelling on the level part of this site. If appropriately scaled and if all existing vegetation is conditioned to be retained then it will not appear overly prominent in the local landscape. Existing vegetation will provide an acceptable degree of integration and new planting will not be relied upon for the purposes of integration. This is an outline application and design is not a consideration at this stage. It is my opinion that a dwelling on this site will not cluster or visually link with the agricultural buildings in the NW portion of this site.

Policy CTY 14 – Rural Character

For the reasons noted above I am of the view that a dwelling on this site would not be unduly prominent subject to it be appropriately scaled. I have no concerns with build-up or ribboning in this particular area. It is therefore my opinion that a dwelling on this site will not have a negative impact on rural character.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal Recommended

Refusal Reasons

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an

exceptional case in that it has not been demonstrated that the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

Signature(s)

Date:

ANNEX	
Date Valid	21st June 2018
Date First Advertised	5th July 2018
Date Last Advertised	16th August 2018
Details of Neighbour Notification (all addresses) The Owner/Occupier, 101 Ballyscullion Road,Bellaghy,Londonderry,BT45 8NA, The Owner/Occupier, 33 Glenvale Road Bellaghy Londonderry The Owner/Occupier, 88 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 90 Ballyscullion Road Bellaghy Londonderry The Owner/Occupier, 99 Ballyscullion Road,Bellaghy,Londonderry,BT45 8NA,	
Date of Last Neighbour Notification	6th August 2018
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/0874/O Proposal: Proposed site of farm dwelling and garage. Address: Approx 100m North East of 90 Ballyscullion Lane, Bellaghy., Decision: Decision Date: Ref ID: H/2002/1160/RM Proposal: Dwelling Address: Site approx 160m North West of 104 Ballyscullion Road, Bellaghy. Decision: Decision Date: 14.02.2003 Ref ID: H/2002/0525/O Proposal: Site for Dwelling Address: Approximately 160m North West of 104 Ballyscullion Road, Bellaghy Decision: Decision Date: 19.11.2002	

Summary of Consultee Responses DFI Roads and DAERA have no objections to the proposal
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:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0879/F	Target Date:
Proposal: Proposed extension to existing workshop and store to provide additional storage and change of use of land for proposed yard area.	Location: Spincraft Ltd (Specialist Woodturning) 158 Annagher Road Coalisland Dungannon BT71 4NF.
Referral Route: Recommendation to approve	
Recommendation:	APPROVE
Applicant Name and Address: Spincraft Ltd 158 Annagher Road Coalisland Dungannon BT71 4NF	Agent Name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Environmental Health Mid Ulster Council	No Response
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	DETI - Geological Survey (NI)	No Objection

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

Characteristics of the Site and Area

The site which is a relatively rectangular shaped plot is located just within the settlement limits of Coalisland, to the rear of existing development, primarily housing but including a car business, running along the Annagher Rd.

The site which is set back approx. 100 metres from and accessed off the Annagher Rd via an existing tarmac lane contains an existing workshop, "Spincraft Ltd", a specialist woodturning business.

There are limited views of the existing business from the public (Annagher) road due to its location set back and screened by the existing roadside development.

This area is defined primarily by residential development however there is also some industrial development in the area including Spincraft Ltd on site and DMAC Engineering located further to the south of the site at the other side of the Annagher Rd. Heading west along the Annagher Rd towards the town centre is Fr Peter Campbell Park GAA Grounds. Heading in the opposite direction, east along the Annagher Rd out of the settlement limits of Coalisland the areas turn progressively rural in character, comprising agricultural land with dispersed single dwellings and farm groups.

Description of Proposal

This is a full planning application for an extension to an existing workshop and store to provide additional storage and the change of use of land (portion of existing agricultural field) for proposed yard area. The existing workshop and store is, "Spincraft Ltd", located at 158 Annagher Rd, Coalisland, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 3 (Clarification): Access, Movement and Parking

Planning Policy Statement 4 - Planning and Economic Development

Planning Policy Statement 4: Clarification of PED 7

Planning Policy Statement 15 (Revised) Planning and Flood Risk

History

On Site

M/2003/1607/F - Full planning permission for the retention of existing joinery workshop and entrance - Withdrawn 22nd March 2005

M/2004/2197/F - Full planning permission for extension to joinery workshop - Granted 5th April 2005.

M/2005/0106/F - Full planning permission for the retention of existing workshop and new entrance to site - Granted 5th April 2005.

Relevant adjacent Site

LA09/2017/0733/F - Full planning application for a housing development comprising of 4 no. two-storey dwellings including access road – Granted 30th May 2018

Consultations

DETI - Geological Survey (NI) were consulted on this application as the site is located within an area of constraint on abandoned mines. DETI - Geological Survey (NI) raised no objections to this proposal.

DFI Roads were consulted on this application in relation to the access, movement and parking. DFI Roads raised no objections to this proposal subject to standard informatives.

Rivers Agency were consulted on this application as Flood NI Maps identified pluvial flooding on site. Under the provisions of *FLD3 - Development and Surface Water*, DFI Rivers Agency stated that if the planning authority deems the proposal is to be over 1 hectare in size or if hard surfacing will be increased by more than 1000 square metres, then the policy requires a

Drainage Assessment to be carried out for their consideration. A drainage assessment was deemed unnecessary by Planning for this proposal as:

- the proposal relates to a site less than 1 hectare;
- the building extension will cover an area of approx. 700m² (25mx28m) and the extended yard is to be an unsealed gravel surface (as outlined in a letter from Peter Quinn acting on behalf of the applicant/agent in response to Rivers Agency request for a drainage assessment) as such the area of hard surfacing as a result of this proposal is below the 1000 square metres threshold.

Environmental Health Mid Ulster Council were consulted on this application. Environmental Health responded that they had examined the information submitted in support of the application and had given consideration to the contents of an objection letter submitted by a resident of 170 Annagher Road. Whilst they noted in their response that the proposal is to be located in an area where there are residential properties, they also stated that the applicant has advised within the P1 form that the extension is for storage only, there will be no intensification of the site with regards to the expected number of employees and visitors to the site. As such they raised no objections to this proposal subject to conditions being added to any planning permission granted to protect the amenity of residents: Condition 1) There shall be no loading or off-loading in the yard area, and Condition 2) There shall be no external storage in the yard area. Further to this response the agent on this application contacted Environmental Health in relation to the first condition and Environmental Health subsequently agreed this condition be amended that any loading or off-loading in the yard area be restricted to a work time of between 08:00am – 05:30pm.

Strategic Planning Policy Statement (SPPS) - Under the Subject Policy: Economic Development, Industry and Commerce the SPPS states that within larger settlements such as cities and towns, planning decisions must, to a large extent, be informed by the provisions made for economic development through the LDP process. And, that all applications for economic development must be assessed in accordance with normal planning criteria, relating to such considerations as access arrangements, design, environmental and amenity impacts, so as to ensure safe, high quality and otherwise satisfactory forms of development. The SPPS retains the policy provisions of PPS 4 - Planning and Economic Development, PPS 3: Access, Movement and Parking and PPS 15 Revised: Planning and Flood Risk

Dungannon and South Tyrone Area Plan (DSTAP) - The site is located within the settlement limits of Coalisland, designated as a town under the DSTAP.

Plan Policy IND 1 Industry and Business zones both existing and additional areas, within which planning permission will normally be granted for industry, storage and distribution, and other appropriate business uses where the development meets the key site requirements contained in Part 3 of the Plan. The site is not located within either the existing or additional areas identified and therefore should be assessed on its individual merits against the provisions of Plan Policy SETT 1 Settlement Limits and particularly PPS 4.

Plan Policy SETT 1 Settlement Limits states: A settlement limit is designated for Dungannon and for Coalisland and land is zoned for the principal land uses. Favourable consideration will be given to development proposals within settlement limits including zoned sites provided the detailed criteria are met. If this proposal is deemed to meet with the provisions of PPS 4 I am content that the criteria detailed in Policy SETT 1 will by and large have been satisfied. It is noted that the site is located on land zoned in the Area Plan as Phase 2 Housing land, land which was to be held in reserve and its development in the short term not permitted. However this proposal is for the expansion of an existing and well established business already located within Phase 2 Housing land, and therefore whilst this proposal may not be in accordance with Part 3 of the Plan it is considered reasonable to treat this as an exception due to the fact the existing factory

currently exists, the incursion into phase 2 land is only a minor departure from policy, as the incursion would not prejudice the development of the remaining zoning for housing and there is no identified shortage of potential housing land in Coalisland.

Planning Policy Statement 4 (PPS4) - Planning and Economic Development

Policy PED 1 Economic Development in Settlements states a development proposal to extend an existing economic development use or premises within settlements, as is the case here, will be determined on its individual merits having regard to Policy PED9 General Criteria for Economic. This proposal has been determined on its individual merits and as such I am content it meets the requirements of Policy PED 9, for the following reasons:

- This proposal is considered compatible with the surrounding land uses given the existing similar economic uses in the vicinity including those at the opposite side of the annagher road to the south of the site. It is noted this development is for the expansion of an existing business for storage only and the resultant extension will not come any closer to any existing or potential neighbouring property than at present.
- In relation to any potential noise generated by this proposal Environmental Health have been consulted (see 'consultations'). Whilst they noted in their response that the proposal is to be located in an area where there are residential properties, they also stated that the applicant has advised within the P1 form that the extension is for storage only, that there will be no intensification of the site with regards to the expected number of employees and visitors to the site. As such they raised no objections to this proposal subject to conditions being added to any planning permission granted to protect the amenity of residents: Condition 1) Any loading or off-loading in the yard area shall be restricted to a work time of between 08:00am – 05:30pm, and Condition 2) There shall be no external storage in the yard area. On the basis of Environmental Health's response and subject to the conditions being attached to any decision notice. As such I am content this proposal should not cause any significant loss of amenity to any neighbouring receptors.
- It will not adversely affect features of the natural or built heritage as there are no features of built heritage on site or in the immediate vicinity.
- Rivers Agency in their consultation response stated the site does not lie within the 1 in 100 year fluvial flood plain nor is it affected by any watercourse known to DfI Rivers. Whilst Flood NI Maps identified pluvial flooding on site this proposal does not exceed the thresholds in FLD3 - Development and Surface Water (as detailed above in 'consultation') whereby a Drainage Assessment is required to be carried out for Rivers Agency's consideration. On the basis of Rivers Agency consultation response and the information submitted in support of this application I am content that the site is not located in an area at flood risk, nor should it cause or exacerbate flooding.
- This proposal is for an extension to an existing workshop and store to provide additional storage and a change of use of land for a proposed yard area and it has been stated on the application that there will be no waste from the site.
- Given the access arrangements for this development involve the use of an existing unaltered access to the public road, that the proposed extension is for storage only,

that there will be no intensification of the site with regards to the expected number of employees and visitors to the site, and DFI Roads have raised no concerns I am content that road safety, parking and turning within the site should not be an issue. As the majority of access to the site will be vehicular, it is not considered a link to the footpath running along the annagher road would encourage walking or cycling.

- I consider the extension to the existing workshop is of a size, scale, design (including materials), alongside the change of use of land from a part of an agricultural field to a yard acceptable for the site and locality and that subject to a condition being attached to any decision notice that a hedgerow be planted along the undefined boundaries of the site it should not have a significant visual impact on the existing character of the area. Given that the site is set back from the annagher road to rear of and by enlarge screened by an existing line of development.

Objections / representations

An objection letter has been received from the owners / occupiers of no. 170 Annagher Road, a dwelling located adjacent to and to the south of the site. The objection letter outlines that:

They have full planning permission for 4 new dwellings on their land immediately adjacent and south of the current application site (LA09/2017/0733/F). That if this current proposal was permitted in its current form it would have a very serious negative impact on both their own private residence and the new dwellings planned to be built. They detail that:

- In principle they accept some provision has to be considered for business expansion but it's the scale, direction and extent of the open yard space that has them really concerned.
- They already suffer from adverse noise nuisance caused by the constant forklift movements and more particularly the noise emanating from the saw dust silos currently located out in open space.
- Have strong reservations about the direction the development is planned to expand i.e. east across the entire length of their rear boundary. They see no valid reason why the extension and yard can't be sited on the northern part of the applicant's lands whereby it would be partly shielded by existing buildings and a reasonable green field open space between both their and the applicants properties could be maintained, possibly landscaped, planted out with some noise abatement feature incorporated within it.
- The site is zoned for Phase 2 housing purposes and in their opinion housing should be afforded preferential treatment over that of industrial use.

However this proposal is for the expansion of an existing and well established business already located within Phase 2 Housing land, and therefore whilst this proposal may not be in accordance with Part 3 of the Plan it is considered reasonable to treat this as an exception due to the fact the existing factory currently exists, the incursion into phase 2 land is only a minor departure from policy, as the incursion would not prejudice the development of the remaining zoning for housing and there is no identified shortage of potential housing land in Coalisland.

The content of this objection has been considered. As detailed earlier in this report this proposal is for the expansion of an existing and well established business already located within Phase 2 Housing land, and therefore whilst this proposal may not be in accordance with Part 3 of the Plan it is considered reasonable to treat this as an exception due to the fact the existing factory currently exists, the incursion into phase 2 land is only a minor departure from policy, as the incursion would not prejudice the development of the remaining zoning for housing and there is no identified shortage of potential housing land in Coalisland. The scale, direction and extent of this proposal, including the yard has been assessed and considered acceptable to the site and locality in accordance with prevailing regional policy contained within the SPSPS and PPS4. With regard to concerns relating the proposal impacting on the objectors private amenity and that of their potential dwellings, I do not foresee any existing or proposed properties being significantly impacted by this proposal, as this proposal is for the expansion of an existing business for storage only and the resultant extension will not come any closer to any existing or potential neighbouring property than at present. In relation to any potential noise issues arising a result of this proposal Environmental Health were consulted and raised no objections to the proposal subject to conditions being added to any planning permission granted, to protect the amenity of residents, that 1) any loading or off-loading in the yard area shall be restricted to a work time of between 08:00am – 05:30pm and 2) There shall be no external storage in the yard area. As such I am content this proposal should not cause any significant loss of amenity to any neighbouring receptors.

Recommendation: Approve

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be approved 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. All existing trees and hedgerows along the boundaries of the site boundaries shall be permanently retained intact and no lopping, topping, felling or removal shall be carried out without the prior written approval of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing within one week of the work being carried out.

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

3. During the first available planting season following the commencement of the development hereby approved a hawthorn or natural species hedge shall be planted in a double staggered row 200mm apart, at 450mm spacing, along all new boundaries of the site as indicated in green on approved drawing No. 02 bearing the date stamp received 12 June 2018, it shall be allowed to grow to and be retained at a height no less than 2 metres.

Reason: In the interests of residential amenity.

4. Any loading or off-loading in the yard area shall be restricted to a work time of between 08:00am – 05:30pm

Reason: To protect the amenity of residents.

5. There shall be no external storage in the yard area.

Reason: To protect the amenity of residents.

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.

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4. TNI comments are as follows:

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.

Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer, whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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. In the interest of public safety and traffic management.

5. Rivers Agency comments:

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm

water etc requires the written consent of DfI. This should be obtained from our Armagh Office, 44 Seagoe Industrial Estate, Seagoe Lower, Craigavon, BT63 5QE.

6. Developers should acquaint themselves of their statutory obligations in respect of watercourses as prescribed in the Drainage (Northern Ireland) Order 1973, and consult the Rivers Agency of the Department of Agriculture accordingly on any related matters.

7. Any proposals in connection with the development, either temporary or permanent which involve interference with any watercourse at the site:- such as diversion, culverting, bridging; or placing any form of structure in any watercourse, require the written consent of the Rivers Agency. Failure to obtain such consent prior to carrying out such proposals is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

8. Any proposals in connection with the development, either temporary or permanent which involve additional discharge of storm water to any watercourse require the written consent of the Rivers Agency. Failure to obtain such consent prior to permitting such discharge is an offence under the Drainage Order which may lead to prosecution or statutory action as provided for.

9. If, during the course of developing the site, the developer uncovers a watercourse not previously evident, he should advise the local Rivers Agency office immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the watercourse.

10. Department for the Economy Geological Survey of Northern Ireland (GSNI) comments:

Geological Survey of Northern Ireland (GSNI) assessed the above mentioned planning proposal in view of stability issues relating to abandoned mine workings

A search of the Geological Survey of Northern Ireland Shafts and Adits Database indicates that the proposed site does not contain any active or abandoned mine workings.

This letter summarises the information currently held by GSNI. We acknowledge that our databases may not be comprehensive and that in certain circumstances the precise location of features and boundaries cannot be guaranteed as being accurate. I would therefore draw your attention to the attached Conditions and Limitations.

Conditions and Limitations:

Use by the customer of information provided by the Geological Survey of Northern Ireland is at the customers risk. The Department for the Economy gives no warranty, expressed or otherwise implied as to the quality or accuracy of information supplied by the Survey. The report provides only general indications of ground conditions and must not be relied upon as a source of detailed information about specific areas or as a substitute for site investigation or ground surveys. Users must satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, that the ground conditions are suitable for any particular use or developments

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/0942/F	Target Date:
Proposal: Change of use from office building to dwelling	Location: 20m N.W of 32 Luney Road Desertmartin
Referral Route: Contrary to CTY 1 & 4 of PPS 21 and Contrary to paragraph 6.73 of the SPPS.	
Recommendation:	Refuse
Applicant Name and Address: Doreen Leacock 32 Luney Road Desertmartin	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

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 issues

Characteristics of the Site and Area

The building to be converted is located approximately 2 miles northwest of Magherafelt in open countryside in accordance with the Magherafelt Area Plan 2015. The building is located within the large existing residential curtilage of No 32 Luney Road which also contains a range of outbuildings some appear to be used for domestic purposes and some appears to be used in connection with an established commercial business. The building to be converted is located along the north-eastern boundary of the site to the rear of the existing dwelling. The site is surrounding by farmland along the north western, south western and south eastern boundaries.

The public road bounds the site along the north western boundary with a number of residential properties located on the opposite side of the road.

Description of Proposal

The application proposes a change of use from office building to dwelling.

Planning Assessment of Policy and Other Material Considerations

Relevant Site History:

H/1989/0153 - Alterations and Additions to Dwellings. Approved 15th June 1989

H/1989/0465 - New building and change of use to wholesaling TV Aerials and accessories and manufacturing TV aerial brackets. Approved 15th May 1990

H/2001/0754/F - 2 No. Offices and Toilets. Approved 10th October 2001

Representations:

5 neighbour's notification letters were sent to the occupiers of Nos 27, 29, 31, 33 & 35 Luney Road, Magherafelt

No letter of representation have been received

Development Plan and Key Policy Consideration:

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherafelt Area Plan 2015: The site is located in the open countryside. There is no other designations on the site.

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.

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. Policy CTY1 of PPS 21 outlines the types of development which may be permitted in the countryside. One type of acceptable development is 'The Conversion and reuse of Existing Buildings' in accordance with Policy CTY 4. The policy states that planning permission will be granted for the sympathetic conversion of, with adaptation, if necessary, a suitable building for a variety of alternative uses, including use as a single dwelling where this would secure its upkeep and retention. Paragraph 6.73 of the SPPS states that provision should be made for the sympathetic conversion and re-use, with adaption if necessary, of a locally important building as a single dwelling where this would secure its upkeep and retention. The amended wording of the SPPS constitutes a revision of Policy CTY4. Paragraph 1.12 of the SPPS states that where there is any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in favour of the provision of the SPPS. The amended wording of the SPPS constitutes a revision of Policy CTY 4 and consequently the term 'locally important building' must take precedence over the term 'suitable building' in Policy CTY4 of PPS21.

The building to be converted was previously used as an office associated with a commercial business within the existing site. The building was approved in 2001 under planning refer No. H/2001/0754/F and would have been built shortly afterwards. The building is single storey and measures 14.1m x 6.5m and has a ridge height of 5.7m. It has been built using modern construction methods and materials and apart from the chamfered entranced detail the building has little architectural merit. Furthermore, given its concealed location within the curtilage of an existing property, the intervening screening and the lack of visual prominence in the local landscape, in this context the building cannot be considered to be a 'locally important building' as envisaged by the SPPS. The proposal is contrary to paragraph 6.73 of the SPPS in that the building is not considered to be 'locally important'.

Criterion (d) of CTY4 requires that the reuse or conversion would not to unduly affect the amenities of nearby residents. The proposal building is located to the rear of an existing dwelling (No32) located within the site. Currently the dwelling and proposal building operate as a single entity. The block plans indicates that the vehicular access to the proposal building would be via the existing access point located in the north east corner of the site, however the block plan lacks clarity on how both buildings can operate independently of one another in terms of providing separate car parking and private amenity space for each buildings. The proposal building is located less than 5m form the rear of the existing dwelling, the front door and windows along the front elevation of the proposal building will overlook into the rear of No32, evidently this would unduly affect the amenities of the residents living at No 32. The proposal is also contrary to Criterion (d) of CTY 4.

Neighbour Notification Checked **Yes**

Summary of Recommendation: Refuse - Contrary to CTY 1 and CTY 4 of PPS 21 and Contrary to paragraph 6.73 of the SPPS.

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 and could not be located within a settlement.
2. The proposal is also contrary to Strategic Planning Policy Statement in that the building is not a 'locally important building'.
3. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that reuse or conversion would unduly affect the amenities of the residents living at No 32 Luney Road, Magherafelt.

Signature(s)

Date:

ANNEX	
Date Valid	5th July 2018
Date First Advertised	19th July 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 27 Luney Road Desertmartin Londonderry The Owner/Occupier, 29 Luney Road Desertmartin Londonderry The Owner/Occupier, 31 Luney Road, Desertmartin, Londonderry, BT45 5JW The Owner/Occupier, 33 Luney Road, Desertmartin, Londonderry, BT45 5JW The Owner/Occupier, 35 Luney Road Desertmartin Londonderry	
Date of Last Neighbour Notification	31st July 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/0942/F Proposal: Change of use from office building to dwelling Address: 20m N.W of 32 Luney Road, Desertmartin, Decision: Decision Date: Ref ID: H/2002/0147/RM Proposal: Dwelling & Garage Address: Opposite 27 & 25 Luney Road, Magherafelt Decision: Decision Date: 30.05.2002 Ref ID: H/1989/0153 Proposal: ALTS AND ADDS TO DWELLING Address: 32 LUNEY ROAD MAGHERAFELT Decision: Decision Date: Ref ID: H/2001/0754/F Proposal: 2 No. Offices And Toilets Address: 32 Luney Road, Magherafelt Decision: Decision Date: 15.10.2001	

Ref ID: H/1989/0465

Proposal: NEW BUILDING AND CHANGE OF USE TO WHOLESALING TV AERIALS
AND ACCESSORIES AND MANUFACTURING TV AERIAL BRACKETS

Address: 32 LUNEY ROAD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1975/0098

Proposal: M/V O/H LINE (C.6748)

Address: LUNEY, MAGHERAFELT

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 04

Type: Existing Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4th December 2018	Item Number:
Application ID: LA09/2018/1056/F	Target Date:
Proposal: Proposed additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, BT75 0TE in substitution to previous 3m wide shared foot and cycle path approved under M/2008/0501/F.	Location: Proposed additional vehicular access to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road Fivemiletown BT75 0TE.
Referral Route: Recommendation to refuse	
Recommendation:	Refusal
Applicant Name and Address: Rahoran Limited C/O 103 Main Street Fivemiletown BT75 0PG	Agent Name and Address: Neil Irvine Design Limited Unit 5 Buttermarket 132 Main Street Fivemiletown BT75 0PW
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Description of proposal

This is a full planning application for an additional 5.5m wide vehicular access, 2no 2m wide footpaths interlinked into existing footpath network including associated right turning lane to The Olde Fairways Residential Development adjacent to 90 Colebrooke Road, Fivemiletown, BT75 0TE. This is to substitute previous 3m wide shared foot and cycle path approved under M/2008/0501/F.

Characteristics of Site and Area

This site is located within the development limit of Fivemiletown and incorporates No. 90 Colebrook Road and an existing strip of land located between No. 90 and 88 Colebrook Road and to the east of 12 and 14 The Olde Firways.

No. 90 is a generous plot with a detached single storey dwelling and double garage with sizable front and rear garden areas. A ranch style 3 rail timber fence defines the roadside boundary, with a 2m close boarded timber fence defining the remaining boundaries.

The grass strip shares part of its NE boundary with No. 88 and is defined by a 'D' Rail fence, close boarded fence and leylandii hedgerow. The SW boundary of the grass strip is shared with the curtilage boundaries of No. 90 and No. 12 and 14 The Olde Firways. The remaining boundaries are not defined with the SE and NE being open to agricultural land.

This site is located approx. 110m NE from the existing approved and built vehicular access to The Olde Firways.

Properties along Colebrook Road respect a common building line and are a mix of detached single and two storey dwellings with individual access onto a protected route within settlement limits, with the Olde Firways development located to the south. Densities are greater in the Olde Firways which is a mix of detached and semi-detached 2 storey dwellings.

Planning Assessment of Policy and Other Material Considerations

Area Plan

Dungannon and South Tyrone Area Plan 2010- The site is located within the development limits of Fivemiletown on land zoned as an area of constraint on mineral developments. Access is onto a protected route. The policy provisions of Strategic Planning Policy Statement (SPPS) and PPS3 Access, Movement and Parking apply.

3rd party representations

No representations have been received.

Relevant Planning History

M/2008/0501/F- Proposed residential housing development consisting of 19 detached houses, 1 block of 3 apartments, 2 blocks of 6 apartments, 1 block of 4 apartments, 1 block of 24 apartments, 110 semi-detached houses and 102 townhouses (Total 274) on lands to the rear of No 50-92 Colebrook Road and "The Olde Fairways", Colebrook Road, Fivemiletown, entrance via "The Olde Fairways" for Tullyherron Development Ltd. Permission was granted 22.09.2011.

Consideration

This proposal is to replace an area of proposed open space which was granted permission under M/2008/0501/F with a new vehicular access road, associated footways and right hand turning lane on Colebrook Road. The proposed area of open space granted under M/2008/0501/F incorporated a cycle/walkway between No.s 88 and 90 Colebrook Road flanked on both sides by green area and provided a link into to the proposed development from Colebrook Road, measuring approx 0.1ha.

The subject site incorporates the proposed area of open space (granted by the 2008 permission and site No. 90 Colebrook Road. No reason for this access position has been proffered by the agent. I sent an e-mail on 13.09.2018 seeking justification for this proposed vehicular access given that a perfectly good and usable access point was granted under the 2008 application. I phone the agent on 17.10.18 for an update on the required information and said he would forward something within 3 weeks. Nothing has been received to progress this planning application.

PPS3 Access, Movement and Parking policy AMP3- Access to Protected Routes states that planning permission will only be granted for a proposal involving residential development where it is demonstrated that the nature and level of access onto the Protected Route will significantly assist in the creation of a quality environment without compromising standards of road safety or resulting in an unacceptable proliferation of access points. It is clear that there is an existing safe access in place that can serve this development which is just over 100m from the proposed new access position. No clear reason has been provided as to why the new access is required. In my view this will lead to an unacceptable proliferation of access points onto Colebrook Road and should be refused.

There is insufficient information to demonstrate that a safe and satisfactory access, including right hand turning lane, can be provided for under this application and additional information required by DfI Roads to make a full and proper assessment has not been provided. The proposal is also contrary to Policy AMP2 Access to Public Roads in that it has not been

demonstrated that the proposed access will not prejudice road safety or significantly inconvenience the flow of traffic.

An area of open space is also being removed as part of a previous permission M/2008/0501/F. It has not been demonstrated by the applicant/agent if this will impact on the overall open space development for the wider permission, and, should this be allowed then a poor precedent for other developments may be set in terms of allowing an alternative use for areas of open space. The applicant/agent has to provide information to show existing provision and how removal of this area will impact on the wider development. The proposal is contrary to PPS7 Quality Residential Environments and PPS8 Open Space, Sport and Outdoor Recreation.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be refused for the following reasons;

Refusal Reasons

1.The proposal is contrary to PPS7 Quality Residential Environments policy QD1 part (c) and PPS8 Open Space, Sport and Outdoor Recreation Policy OS2 in that the proposal will result in the loss of area of open space and insufficient information has been provided to demonstrate that sufficient open space has been provided in the wider permission M/2008/0501/F.

2.The proposal is contrary to PPS3 Access, Movement and Parking policies AMP2 and AMP3 in that it would result in an unacceptable proliferation of access points along a protected route and there is insufficient information to demonstrate that a safe and satisfactory access can be achieved onto the public road.

Signature(s)

Date:

ANNEX	
Date Valid	3rd August 2018
Date First Advertised	16th August 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 10 The Olde Fairways Fivemiletown Tyrone The Owner/Occupier, 11 The Olde Fairways Fivemiletown Tyrone The Owner/Occupier, 12 The Olde Fairways Fivemiletown Tyrone The Owner/Occupier, 14 The Olde Fairways Fivemiletown Tyrone The Owner/Occupier, 15 The Olde Fairways, Fivemiletown, Tyrone, BT75 0SD, The Owner/Occupier, 88 Colebrook Road Fivemiletown Tyrone The Owner/Occupier, 9 The Olde Fairways, Fivemiletown, Tyrone, BT75 0SD, The Owner/Occupier, 90 Colebrook Road, Fivemiletown, Tyrone, BT75 0SA, The Owner/Occupier, 92 Colebrook Road Fivemiletown Tyrone	
Date of Last Neighbour Notification	14th August 2018

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1063/F	Target Date:
Proposal: Substitution of Planning Permission LA09/2017/0022/O for site located immediately North of the permitted site	Location: 85m North of 25 Bogashen Road Portglenone
Referral Route: To committee – Approval – Applicant is a relative of a planning staff member	
Recommendation:	APPROVE
Applicant Name and Address: JFM Construction LTD 75 Loughbeg Road Toomebridge BT41 3TS	Agent Name and Address: Bannvale Architectural Services 104A Ballynease Road Portglenone BT44 8NX
Executive Summary: Approval	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

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

Summary of Issues

Approval - Applicant is related to a member of the planning staff.

Characteristics of the Site and Area

The site is located approximately 2.7km south west of Clady and it is situated within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 85m North of 25 Bogashen Road, Portglenone and the site encompasses the recently approved replacement site (LA09/2017/0022/O) and extends into the adjacent field to the north. The proposed site intends to access the public road via a recently approved access directly off the Bogashen Road. The surrounding area is predominantly agricultural uses with scattering of residential dwellings

Relevant planning history

Reference	Location	Proposal/Complaint	Status	Date
LA09/2018/1063/F	85m North of 25 Bogashen Road, Portl...	Substitution of Planning Permission LA09/2017/0022/O	VALID APPLICATION RECEIVED	
LA09/2017/0022/O	Site 25m North of 25 Bogashen Road,	Replacement Dwelling and Garage	PERMISSION GRANTED	14.03.2017
LA09/2017/0437/F	Site 25m North of 25 Bogashen Road,	New access for approved replacement site LA09/2017	PERMISSION GRANTED	08.09.2017

Representations

Two neighbour notifications were sent out however no representations were received in connection with this application.

Description of Proposal

This is full application for the substitution of Planning Permission LA09/2017/0022/O for site located immediately North of the permitted site. The proposed siting is approximately 40m North West of the previously approved location. In that the application is now proposing a split level dwelling with a single storey and two storey elements in a T-shape, the proposed dwelling will have smooth render painted white finish to the walls with natural grey stone and red cedar vertical timbers in parts, the roof is to be flat black/blue roof tiles.

Planning Assessment of Policy and Other Material Considerations

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

CTY 13 – Integration and Design of Buildings in the Countryside; and

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The application is for the re-siting of the previously approved replacement dwelling. The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. Development is controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for the substitution of a previously approved replacement dwelling and for this reason the development must be considered under CTY 3 of PPS 21. Within the previous approval LA09/2017/0022/O it has already been concluded that there is a valid replacement opportunity, the issue is over the siting of the proposed dwelling. However this application intends to move the dwelling outside this curtilage into an adjacent field, CTY 3 states the dwelling should be sited within the existing curtilage, unless either (a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or (b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits. It is noted that in the previous approval it was accepted that a modest dwelling could be accommodated within the existing curtilage of the previous dwelling from this removing (a) from consideration. In addition, as a new access to the site has already been previously approved (LA09/2017/0437/F) means access cannot be considered, however the agent did provide a statement to argue the remaining criteria. It has to be noted that some of the contents of the report appear to be incorrect in relation the previous approval, however an amended report was submitted addressing the main benefits of the site. The statement reaffirmed that the access benefits have been met through the new approved access but noted that the new site would be easier accessed. In addition made reference that the proposed site sits on lower ground than that previously approved and that the surrounding vegetation along with the already approved landscaping of the laneway would mean that the proposed site would visually integrate better than that of the approved, a point in which the planning group agrees with on balance. The supporting statement went on to state the site will provide opportunities for enhanced tree planting which will provide biodiversity benefits. In addition stated that the ground water quality and well will be protected from any risks in association with any septic tanks, in that the land falls away to the north of the site and it is more conducive to land drainage provide sufficient opportunities for the provision of a septic tank and soakaway. Finally, it was stated that there are amenity benefits as the proposed siting will ensure more distance between residential properties ensuring that it will reduce any concerns of overlooking and any impact on residential amenity. After group discussions it was noted that on balance on all the above that this is sufficient in allowing to move the dwelling outside the existing curtilage and it is able to comply under CTY 3 and this will not significant greater visual impact in this position.

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. As the site is on lower ground than that of the previously approved and uses existing ground level I am content on balance that the proposal will not be visually prominent. It is noted that there is already existing vegetation around the site along with approved landscaping of LA09/2017/0437/F means there is already good integration provided however there is a new boundary proposed along the new north western boundary, from this I am content that the dwelling is able to integrate into the landscape. With regards to the design as noted has used the landform well and after group discussions it has been agreed that the design is acceptable on balance therefore I am content that the proposed dwelling is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As noted above I am content that the proposed dwelling will not appear as prominent in the landscape. I am of the opinion that this would not result in a suburban style build-up of development when viewed with the existing and approved buildings. The proposed development will respect the traditional pattern of settlement exhibited in the area and it will not create or add to a ribbon of development. On a whole I am content that the proposed development complies with CTY 14.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;
The access has already been previously approved.

I have no ecological, flooding or residential amenity concerns.

As the proposal has shown its compliance under PPS 21 I therefore must recommend approval for this application.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approval

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. This permission is granted solely as a substitute for the permission for a dwelling previously granted on the site under Ref: LA09/2017/0022/O on the 14th March 2017 and only one dwelling shall be constructed on the site.

Reason: To ensure that only one dwelling is constructed on site.

3. All landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02 date stamped 06th August 2018 shall be carried out in the first planting season following the commencement of the construction of the development hereby approved.

Reason: To ensure the development integrates into the countryside

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

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

5. The existing natural screenings of the site, on the stamped approved Drawing 02 date stamped 06th August 2018 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

6. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

Reason: To ensure the continuity of amenity afforded by existing trees.

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 authorises only private domestic use of the proposed garage and does not confer approval on the carrying out of trade or business there from.

3.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.

4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

Signature(s)

Date:

ANNEX	
Date Valid	6th August 2018
Date First Advertised	22nd August 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 23 Bogashen Road Portglenone Londonderry The Owner/Occupier, 25 Bogashen Road Portglenone Londonderry	
Date of Last Neighbour Notification	13th August 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1063/F Proposal: Substitution of Planning Permission LA09/2017/0022/O for site located immediately North of the permitted site Address: 85m North of 25 Bogashen Road, Portglenone, Decision: Decision Date:	
Ref ID: LA09/2017/0022/O Proposal: Replacement Dwelling and Garage Address: Site 25m North of 25 Bogashen Road, Portglenone, Decision: PG Decision Date: 14.03.2017	
Ref ID: LA09/2017/0437/F Proposal: New access for approved replacement site LA09/2017/0022/O Address: Site 25m North of 25 Bogashen Road, Portglenone, Decision: PG Decision Date: 08.09.2017	
Ref ID: H/2007/0218/F Proposal: Proposed replacement dwelling. Address: 27 Bogashen Road, Portglenone Decision:	

Decision Date: 14.01.2010

Ref ID: H/2007/0217/F

Proposal: Replacement dwelling

Address: 29 Bogashen Road, Portglenone

Decision:

Decision Date: 19.10.2009

Ref ID: H/2005/0286/O

Proposal: Proposed site for replacement dwelling

Address: 23 Bogashen Road, Portglenone

Decision:

Decision Date: 21.07.2005

Ref ID: H/2006/0572/RM

Proposal: Replacement dwelling and garage

Address: 23 Bogashen Road, Portglenone

Decision:

Decision Date: 19.01.2007

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 05
Type: Proposed Plans
Status: Submitted

Drawing No. 04
Type: Proposed Plans
Status: Submitted

Drawing No. 03
Type: Proposed Plans
Status: Submitted

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

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1120/O	Target Date:
Proposal: Site for proposed infill dwelling as per PPS21 CTY8	Location: 40m North of 98 Kilrea Road Portglenone
Referral Route: Recommendation of refusal as proposal contrary to CTY 1, CTY 8 & CTY 14 of PPS21.	
Recommendation:	REFUSE
Applicant Name and Address: Noel Henry 98 Kilrea Road Portglenone BT44 8JL	Agent Name and Address: Edelle Dodds 5 Hughs Villas Gulladuff Magherafelt BT45 8NX
Executive Summary:	
Signature(s): Lorraine Moon	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

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

Proposal site contrary to policy requirements of CTY 1, CTY 8 & CTY 14 of PPS21.

Characteristics of the Site and Area

The proposal site is located within a large rectangular agricultural field located on the roadside of Kilrea Road, Portglenone. The site is relatively flat in nature and is surrounded on three sides by agricultural land. The site is bounded on the roadside by a large grass verge and agricultural hedge while the three remaining boundaries are defined by mature agricultural hedging and a post and wire fence. On the SW corner of the proposal site are three detached dwellings which are accessed via an access lane that runs along the southern boundary of the proposal site. These three properties are located in excess of 70metres from the roadside with agricultural land in between them and the roadside.

Description of Proposal

Site for proposed infill dwelling as per PPS 21 CTY 8

Planning Assessment of Policy and Other Material Considerations

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable Development in the Countryside

Neighbours: - Owners/Occupiers of Nos. 94, 96 _ 98 where notified of the proposal on 12.09.2018, no objections have been received to date.

Consultees: - Environmental Health were asked to comment and responded on 09.10.2018 with no objections.

Dfl were asked to comment and responded on 12.10.2018 with no objections subject to conditions.

NI Water were asked to comment and responded on 17.09.2018 with no objections.

The proposal site is within the open countryside as defined by Magherafelt Area Plan 2015.

The SPSS sets out the guiding principle in determining planning applications is that sustainable development should be permitted, having regards to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Infill/Ribbon development, provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage.

PPS3 - Access, Movement and Parking sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transportni routes and parking.

PPS21 - Sustainable development in the Countryside sets out planning policies for development in the countryside. CTY 1 states that there are a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met:

- The gap site must be within an otherwise substantial and continuously built up frontage and includes a line of 3 or more buildings along a road frontage without accompanying development to the rear;
- the gap site must be small;
- the existing development pattern along the frontage must be respected
- and other planning and environmental requirements must be met.

Paragraph 5.33 of PPS21 advises that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. However, this only sets out the basis for establishing generally where a ribbon of development, either exists or may arise. It is not concerned with defining a substantial and continuously built up frontage.

The site outlined in red encompasses a large agricultural field on Kilrea Road, Portglenone. There is an existing access lane running along the southern boundary which serves Nos 94, 96 _ 98 Kilrea Road. These three existing properties are set back in excess of 70metres from the road side and none have a frontage onto Kilrea road with there being agricultural land between these properties and the roadside. For the proposal site to be considered acceptable under CTY 8 the site should be within an otherwise substantial and continuously built up frontage which is defined as 3 or more buildings along a road frontage without accompanying development to the rear. I have determined that the site is not within a substantial and continuously built up frontage, therefore no infill opportunity arises and issues regarding plot size, frontage size and development pattern are irrelevant.

Integration

Policy CTY 13 states that Planning Permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am satisfied that a dwelling with a ridge height of 8m could visually integrate into the surrounding landscape. This is an outline application thus the design of the dwelling will be assessed at reserved matters if approval is forthcoming.

Impact on Character and Appearance of the Area

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. However on some occasions a new building may have little impact by itself but when taken cumulatively with other existing and approved buildings and their ancillary features in the vicinity it could result in a build-up of development detrimental to the rural character of that area which is the situation with this proposal site.

Having considered all of the points discussed above I feel the most suitable recommendation would be that of a refusal as the proposal does not adhere to CTY 1, CTY 8 AND CTY 14 of PPS21.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Recommendation of refusal as proposal contrary to CTY 1, CTY 8 & CTY 14 of PPS21.

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 CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would not represent the infilling of a small gap site within an otherwise substantial and continuously built up frontage.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted lead to an unacceptable impact on rural character as a result of build up.

Signature(s)

Date:

ANNEX	
Date Valid	22nd August 2018
Date First Advertised	6th September 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 94 Kilrea Road Portglenone Londonderry The Owner/Occupier, 96 Kilrea Road, Portglenone, Londonderry, BT44 8JL, The Owner/Occupier, 98 Kilrea Road Portglenone Londonderry	
Date of Last Neighbour Notification	12th September 2018
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2018/1120/O Proposal: Site for proposed infill dwelling as per PPS21 CTY8 Address: 40m North of 98 Kilrea Road, Portglenone, Decision: Decision Date: Ref ID: LA09/2018/0041/O Proposal: Proposed dwelling and garage - infill Address: Approx 50m South East of 94 Kilrea Road, Portglenone, Decision: RL Decision Date: Ref ID: H/1975/0022 Proposal: 11KV AND M/V O/H LINES (C.6390) Address: BROAGH AND CABRAGH, MAGHERAFELT Decision: Decision Date: Ref ID: H/1975/0007 Proposal: 11KV AND MV O/H LINES (C.6408) Address: LISNAMUCK AND BRACAGHARIELLY, MAGHERAFELT Decision:	

Decision Date:

Ref ID: H/1986/0251

Proposal: HOUSE WITH GARAGE

Address: ADJACENT TO 96 KILREA ROAD, PORTGLENONE

Decision:

Decision Date:

Ref ID: H/1980/0409

Proposal: SITE OF BUNGALOW

Address: MONEYGRAN ROAD, CLADY, PORTGLENONE

Decision:

Decision Date:

Ref ID: H/1980/0213

Proposal: HV O/H LINE (BM 3814)

Address: TYANEE, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1975/0295

Proposal: 11KV O/H LINE (C.7478)

Address: TYANEE, PORTGLENONE

Decision:

Decision Date:

Ref ID: H/1983/0409

Proposal: REPLACEMENT HOUSE WITH GARAGE

Address: KILREA ROAD, PORTGLENONE

Decision:

Decision Date:

Summary of Consultee Responses

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:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1141/F	Target Date: 13/02/18
Proposal: Construction of modular building with associated services and waste water treatment plant. Works also to include extension of existing upper car park with improvement works to existing site access and pedestrian link footpath between lower and upper car parks	Location: Knockmany Forest Knockmany Road Augher
Referral Route: Approval – MUDC Application	
Recommendation:	Approve
Applicant Name and Address: Mid Ulster District Council (MUDC) Burn Road Cookstown BT80 8DT	Agent Name and Address: Technical Services Department Mid Ulster District Council (MUDC) Burn Road Cookstown BT80 8DT
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Advice and Guidance	Rivers Agency	Add Info Requested
Statutory	DAERA - Forestry Division	Advice

Representations:

Letters of Support	1
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

4 representations received (in the form of non commital letters)

- The use of existing waste water treatment plant
- Anti-social behaviour
- Litter and dog fouling
- Protection of wildlife
- Caravanning
- Lack of directional signage

Characteristics of the Site and Area

The site is located at Knockmany Forest, Augher. Within the red line are the existing car parks which currently serve the forest. The site is located in the rural countryside and is located approx. 4 mile outside of Augher. The surrounding area is largely agricultural fields with a number of single dwellings and their associated outbuildings scattered throughout. There is a group of dwellings to the south of the site.

Description of Proposal

Full planning permission is sought for the construction of modular building with associated services and waste water treatment plant. Works also to include extension of existing upper car park with improvement works to existing site access and pedestrian link footpath between lower and upper car parks.

Planning Assessment of Policy and Other Material Considerations

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 42 and 43 Claremore Road, 63, 65, 67, 69 Knockmany Road. There were a number of representations received which will be discussed in detail in this report.

Planning History

LA09/2017/1735/PAD – Knockmany Forest, Augher - Development of existing lakeside pathways from grass tracks to stoned pathways. Provision of modular building. Building to include toilets, showers, small kitchen and meeting room. Provision of direction fingerpost signage within forest boundary – PAD DECLINED

Planning Assessment of Policy and Other Material Considerations

- Dungannon and South Tyrone Area Plan 2010
- Regional Development Strategy 2035
- Strategic Planning Policy Statement (SPPS)
- PPS 3 – Access, Movement and Parking
- PPS 21- Sustainable Development in the Countryside

The site is located outside any defined settlement limit, in the rural countryside as identified in the Dungannon and South Tyrone Area Plan 2010. The site is located NW of Augher settlement limit. The site is located within an Area of Constraint of Mineral Developments and Forest Nature Reserve. It has no other zonings or designations within the Plan.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Policy AMP 10 Provision of Public and Private Car Parks of PPS 3 advises that approval will be granted to such proposals provided:-

-they do not significantly contribute to increased congestion;

The proposal will provide additional car parking and a wide link footpath from the lower to upper car park for Knockmany forest for Mid Ulster District Council. The P1 form indicates that there will be no change or intensification of traffic going to and from the site as a result of the proposal.

-are not detrimental to environmental quality;

The proposal is not seen as causing any detriment to environmental quality and will provide appropriate parking in an organised fashion.

-they meet an identified need;

Knockmany Forest can attract large visitors on a daily basis. At present there is limited parking available. This proposal will provide additional spaces for the Forest for the general public need.

-Within areas of defined parking restraint, the spaces are appropriately managed to deter long stay commuter parking;

The site is not within an area of where there is a defined parking restraint. However, these spaces can be defined and managed so as to deter long stay commuter parking.

-They are compatible with adjacent land uses;

The car park is compatible with the existing land uses.

DfI Roads have been consulted and initially raised some concerns, mainly in relation to the access. Initially there were some concerns raised, mainly in relation to the access to the site. Amended drawings were submitted and agreed with the Principal Roads Engineer Andrew Alderdice. The road construction detail will require to be agreed with Roads Section office during the works however the depths and make up are considered acceptable to proceed with a planning approval subject to condition.

Rivers agency were consulted as the site is partially within the flood zones. Due to the nature of the development it was considered that some of the information requested by Rivers Agency was not required. The proposal intends to build on three walls and a finished floor level will be established to ensure that the modular building does not flood in future years. The Policy FLD 1 allows for replacement of existing buildings in flood plains with the exception of bespoke accommodation for vulnerable groups. This is a replacement which in general meets the policy but on occasion will have children and other vulnerable groups using it, a permission is conditional on an evacuation plan in place in case of a flood event.

A summary of the issues raised in the representations include:

- The use of existing waste water treatment plant
- Anti-social behaviour
- Litter and dog fouling
- Protection of wildlife
- Caravanning
- Lack of directional signage

Many of the issues raised are outside the remit of planning, e.g. litter and dog fouling, anti-social behaviour and caravanning. The proposal includes a separate waste water treatment plant and therefore there are not considered to be any issues surrounding this. NI Water were consulted and raised no concerns to the proposal. Anti-social behaviour, Caravanning, the lack of directional signs on the site is not something which can be dealt with under this planning application. I would advise that these representations are raised with the relevant bodies.

The proposal is for a modular building which will allow for meetings to be accommodated in this locality. The proposal is to replace a building which was previously located SE of Car Park B and was advised to be moved due to risk of falling trees. The modular building proposed is modest in size and scale and it is not considered that it will have any detrimental effects on any of the neighbouring properties or the site itself, instead it will provide an important community building for the area.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal is considered to be in compliance with the relevant planning policies and subsequently planning approval is recommended.

Conditions/Reasons for Refusal:

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 occupation of the building hereby permitted, the Council will have in place an evacuation plan in relation to vulnerable groups of people in the event of any future flood event.

Reason: In the interest of public safety and the general health and wellbeing of the public.

3. Prior to the occupation of the modular building hereby permitted, the access arrangements of the site must be agreed with Mid Ulster District Council.

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

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. A suitable freeboard level should be sought by the developer as this area is within an identified flood risk area.

Signature(s)

Date:

ANNEX	
Date Valid	30th August 2018
Date First Advertised	13th September 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 42 Claremore Road,Augher,Tyrone,BT77 0DD, The Owner/Occupier, 43 Claremore Road,Augher,Tyrone,BT77 0DD, Denis Monaghan 61 Knockmany Road Augher Tyrone The Owner/Occupier, 63 Knockmany Road,Augher,Tyrone,BT77 0DE, The Owner/Occupier, 65 Knockmany Road,Augher,Tyrone,BT77 0DE, The Owner/Occupier, 67 Knockmany Road,Augher,Tyrone,BT77 0DE, The Owner/Occupier, 69 Knockmany Road,Augher,Tyrone,BT77 0DE, C.and S. E. Jamison Email Rory and Ann McSorley Email Ann Hagan Haganann@hotmail.com	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1141/F Proposal: Construction of modular building with associated services and waste water treatment plant. Works also to include extension of existing upper car park with improvement works to existing site access and pedestrian link footpath between lower and upper car parks Address: Knockmany Forest, Knockmany Road, Augher, Decision: Decision Date: Ref ID: M/1991/6047 Proposal: Dwelling Knockmany Forest	

Address: Knockmany Forest

Decision:

Decision Date:

Ref ID: M/1976/0533

Proposal: CHANGE OF CONDUCTORS, MV O/H DISTRIBUTOR, MV O/H SERVICE

Address: ARDUNSHIN, CLOGHER

Decision:

Decision Date:

Ref ID: LA09/2017/1735/PAD

Proposal: Development of existing lakeside pathways from grass tracks to stoned pathways. Provision of modular building. Building to include toilets, showers, small kitchen and meeting room. Provision of direction fingerpost signage within forest boundary.

Address: Knockmany Forest, Augher,

Decision:

Decision Date:

Summary of Consultee Responses

Some concerns i.e. access and flooding – addressed by way of condition at this stage.

Drawing Numbers and Title

Drawing No. 01

Type: Proposed Plans

Status: Superseded

Drawing No. 02

Type: Proposed Plans

Status: Submitted

Drawing No. 01a

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1152/F	Target Date:
Proposal: Proposed 2 Apartments in lieu of previously approved dwelling (reference: LA09/2017/1542/F)	Location: Approx 7m NW of 6 Ferguy Heights Cookstown
Referral Route: Refusal - To committee - Contrary to QD1 of PPS 7.	
Recommendation:	REFUSE
Applicant Name and Address: Roger McCombe 49 Oldtown Street Cookstown BT80 8EE	Agent Name and Address: CMI Planners Ltd 38 Airfield Road Toomebridge Antrim BT41 3SG
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	Historic Environment Division (HED)	Content

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

Contrary to QD1 of PPS 7

Characteristics of the Site and Area

The site is located within the development limits of Cookstown and it is also located within an Area of Townscape Character but just outside the town centre as per the Cookstown Area Plan 2010. The site is identified as approximately 7m NW of No. 6 Ferguy Heights, Cookstown, the proposed site represents a small urban infill, rectangular in shape with a plot size measuring 0.01 Hectare contained within Zoning H08 land to the rear of Ferguy Heights and Oldtown. There is still significant land still undeveloped accessing possibly from the Moneymore Road through Housing H06. The design of dwellings in close proximity are 1 ½ storey with integral garages, the land on the site is steeply sloping and will require careful attention to matters relating to layout, siting, design and density. The surrounding context of the area is largely characterised by 1 ½ storey residential dwellings containing semi-detached dwellings with integral garages with limited front space.

Relevant planning history

LA09/2017/1542/F – Proposed Dwelling – Permission Granted – 30th April 2018

Representations

There were seven notification letters sent out however no objections were received.

Description of Proposal

This is a proposed full application for 2 Apartments in lieu of previously approved dwelling (reference: LA09/2017/1542/F).

Planning Assessment of Policy and Other Material Considerations

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 7: Quality Residential Environment

PPS 3: Access, Movement and Parking

Cookstown Area Plan 2010: The site is located within the development limits of Cookstown and is also located within an Area of Townscape Character.

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. The SPPS 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 gives provision for Housing in Settlements subject to a number of policy provisions. It does not present any change in policy direction with regards to residential development in settlements. As such, existing policies will apply.

PPS 7 is a material planning policy for this type of development in an urban setting. All proposals for residential development will be expected to conform to a number of criteria laid out in the policy.

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 surface areas:-

With regards to the development it is noted that the principle of development on this site has already been established through LA09/2017/1542/F approval, in that it noted with an increase in height and addition of new windows and a door that it is still able to respect the surrounding context. HED were also consulted and confirmed that they were content with the proposal.

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

Again despite a number of design changes to that previously approved and despite partially being located within the ATC, I am still satisfied that the proposed development complies with this criteria.

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 the proposed development it is felt that provision of public open space is not necessary. With regards to private open space it is noted that there is 41.99sqm provided which is in line with the requirements set out in Creating Places. On balance I am content it complies with this criteria.

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

The size and scale of this development does not require it to make provision for local neighbourhood facilities. There are existing transport links in the area.

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 are existing transport links in close proximity to the site.

f) adequate and appropriate provision is made for parking:-

The proposed development has provided three parking spaces to the front of the site, which has been accepted by the Council and DFI Roads.

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

The external appearance is reflective of the previously approved LA09/2017/1542/F however due to the increase in height has required a number of changes. Despite this I am still content that this is acceptable in terms of design.

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:-

As noted that there is an increase in height to that previously approved, after group discussions it was concluded that the additional height and addition of the outside staircase that this has the capacity to have an adverse impact on the amenity of No. 6 Ferguy Heights. However after discussions with the Planning Manager this concern was removed as there are no gable end windows on No. 6 therefore will not result in a loss of privacy. But further added that due to the close proximity of the site to No.49 Oldtown Street that as a result of the additional height that it has the capacity to have an adverse impact in terms of overshadowing. In addition as a result of the additional height it is felt that proposed building will also be overbearing on both No. 49

Oldtown Street and No. 6 Ferguy Heights respectively. From this it was agreed that this was unacceptable and refusal must be recommended.

i) the development is designed to deter crime and promote personal safety:-
It is my opinion that the proposed development will not increase the potential for crime.

It is noted that the proposal will not result in a significantly higher residential density in the area and that the unit size is quite small however it is the same size as the single unit previously approved. But as stated above after agreements with the Planning Manager it was agreed that I must recommend refusal due to the concerns over the potential impacts on residential amenity.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

1.The proposal is contrary to Policy QD1 of Planning Policy Statement 7, Quality Residential Environment in that the design and layout will have an adverse impact on existing properties in terms of overshadowing and overbearing.

Signature(s)

Date:

ANNEX	
Date Valid	31st August 2018
Date First Advertised	13th September 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 2 Ferguy Heights Cookstown Tyrone The Owner/Occupier, 3 Ferguy Heights Cookstown Tyrone The Owner/Occupier, 4 Ferguy Heights Cookstown Tyrone The Owner/Occupier, 41 Oldtown Street, Cookstown, Tyrone, BT80 8EF, The Owner/Occupier, 49 Oldtown Street Cookstown Tyrone The Owner/Occupier, 51 Oldtown Street Cookstown Tyrone The Owner/Occupier, 6 Ferguy Heights Cookstown Tyrone	
Date of Last Neighbour Notification	12th September 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1152/F Proposal: Proposed 2 Apartments in lieu of previously approved dwelling (reference: LA09/2017/1542/F) Address: Approx 7m NW of 6 Ferguy Heights, Cookstown, Decision: Decision Date: Ref ID: LA09/2017/1542/F Proposal: Proposed dwelling (Amended Plans) Address: Approx 7m N.W. of 6 Ferguy Heights, Cookstown, Decision: PG Decision Date: 02.05.2018 Ref ID: LA09/2016/0527/F	

Proposal: Proposed change of use from existing vacant commercial property to residential premises

Address: 49 Oldtown Street, Cookstown, BT80 8EF,

Decision: PG

Decision Date: 02.08.2016

Ref ID: I/2005/1131/O

Proposal: Proposed town house with attached garage (amended plans).

Address: To the rear of 49 Oldtown Street (Ferguy Heights) Cookstown

Decision:

Decision Date: 02.02.2006

Ref ID: I/2001/0666/F

Proposal: 2 No Semi-Detached Dwellings

Address: 22 & 24 Ferguy Heights, Cookstown

Decision:

Decision Date: 12.06.2002

Ref ID: I/2001/0637/F

Proposal: 65 No Dwellings and Estate Layout

Address: Off Ferguy Heights Cookstown

Decision:

Decision Date: 06.04.2007

Ref ID: I/2000/0661/A

Proposal: Post sign

Address: 49 Oldtown Street Cookstown

Decision:

Decision Date: 23.01.2001

Ref ID: I/1999/0675/A

Proposal: 1 No. post sign

Address: No 49 Oldtown Street, Cookstown, Co. Tyrone. BT80 8EE

Decision:

Decision Date: 06.06.2000

Ref ID: I/1999/0674/F

Proposal: Change of use of existing dwelling to proposed office accommodation.

Address: NO 49 Oldtown Street Cookstown Co Tyrone.

Decision:

Decision Date: 20.03.2000

Ref ID: I/1998/0554

Proposal: CONSTRUCTION OF 2 DWELLINGS AND ESTATE ROAD

Address: 26 & 28 FERGUY HEIGHTS, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1998/0073

Proposal: Two Number Dwellings and Estate Road

Address: SITE NOS. 26 AND 28 FERGUY HEIGHTS COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/6021

Proposal: Proposed Dwellings Ferguy Heights, Cookstown

Address: Ferguy Heights, Cookstown

Decision:

Decision Date:

Ref ID: I/1995/0386

Proposal: 1 pair of semi-detached dwellings

Address: FERGUY HEIGHTS COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1995/0229

Proposal: 1 Pair Semi-Detached Houses

Address: FERGUY HEIGHTS OLDTOWN STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1994/0187

Proposal: 1 pair of Semi-Detached Houses

Address: FERGUY HEIGHTS OLDTOWN STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1993/0033

Proposal: 3 No Dwellings

Address: FERGUY HEIGHTS OLDTOWN STREET COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1991/4001

Proposal: Extension and Alterations to Ground Floor Flat

Address: 47 OLDTOWN STREET, COOKSTOWN.

Decision:

Decision Date:

Ref ID: I/1988/0095

Proposal: ALTERATIONS TO APPROVED HOUSING ESTATE AND SERVICE ROAD

Address: FERGUY HEIGHTS, OLDTOWN STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1987/0503

Proposal: 2 NO FLATS

Address: 45 AND 47 OLDTOWN STREET, COOKSTOWN

Decision:

Decision Date:

Ref ID: I/1981/0194

Proposal: PRIVATE HOUSING DEVELOPMENT

Address: 43-47 OLDTOWN STREET, COOKSTOWN

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No.
Type:
Status: Submitted

Drawing No. 03
Type: Proposed Elevations
Status: Submitted

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:

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1196/O	Target Date:
Proposal: Residential dwelling and garage	Location: Adjacent to 19 Loup Road Moneymore
Referral Route: To Committee - Refusal - Does not meet policy CTY 1 of PPS 21 or PPS 3 and one objection received.	
Recommendation:	REFUSE
Applicant Name and Address: Mr P E Moran 103 Loup Road Moneymore Magherafelt	Agent Name and Address: L J Hilditch 46 Victoria Road Larne BT40 1RN
Executive Summary: Refusal	
Signature(s): Peter Henry	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division (HED)	Content
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

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

Does not meet any cases for residential development stated in CTY 1 of PPS 21 and one objection received. Summary of the objection is as follows;

- Stated that the proposal would infringe on their privacy, due to the elevation of the site in relation to their own property and any structure would have a direct view into mine.
- Raised concerns that the proposed application would result in a congestion of the laneway as there is already another working farm on past the objector's property causing even more damage to the shared access surface.
- Concerns that this application would result in making access to their surrounding fields more difficult.
- Concluded that there was an outline application at this site approximately 20 years ago and it was turned down because it was on the skyline, and questioned if planning condition had since changed.

Characteristics of the Site and Area

The site is located approximately 0.8km east of Moneymore and is situated within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent to no. 19 Loup Road Moneymore, in which it is noted that the application site is quite small and is located in the corner of a much larger agricultural field, in that the field is bound on all boundaries by a line of hedging but the site rises from the east to the west. The proposed site intends to access off a private laneway that already serves a number of dwellings and farm holdings. The immediate and surrounding area is defined by a mix of residential and agricultural land uses.

Relevant planning history

I/1999/0148	120M SOUTH EAST OF 19 LOUP RD.	Proposed site for dwelling	PERMISSION GRANTED	
I/1985/0072	DOLUSKEY, MONEYMORE	DWELLING AND GARAGE	PERMISSION GRANTED	
I/1978/0005	DOLUSKAY, MONEYMORE	REPLACEMENT FARM BUNGALOW	PERMISSION GRANTED	

Representations

Four neighbour notifications were sent out however one objection was received.

Description of Proposal

This is an outline application for a proposed residential dwelling and garage. The site is identified as adjacent to 19 Loup Road, Moneymore.

Planning Assessment of Policy and Other Material Considerations

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 13 – Integration and Design of Buildings in the Countryside; and

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill

opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

It is noted that there no supporting statement along with this application to confirm under which policy of PPS 21 the application would be considered. When the agent was asked he submitted a letter that the application should be considered under PPS 21, particularly that of CTY 13 and 14. It is also noted that the application site is quite small which was noted to the agent when requesting amendments for visibility splays to be show, from this the agent eventually responded to confirm that there was mistake made when submitting through using the wrong scale. Subsequently submitted an amended location plan was sent in increasing the site significantly, however the agent was told that this could not be done as the application has already been deemed valid and the site area could not be increased. Additionally it has to be noted that upon further review the amended plan submitted was of the wrong scale and ultimately could be accepted anyway. Therefore the agent has been advised that he could either withdraw this application or it would proceed on the basis of what has been originally submitted, there was no response therefore the application will proceed for determination.

As there is no clear indication on how the agent wants this application to be considered it will be broadly considered under all policies of PPS 21. CTY 1 of PPS 21 states that planning permission will be granted for an individual dwelling under a number of cases; taking each policy separately are as below:

CTY 2 – the application is not located within the a Dispersed Rural Community

CTY 2a – Site not considered as cluster, does not appear as a visual entity, there is not four or more buildings, no focal point and it is not bounded on two sides.

CTY 3 – Cannot be considered as a replacement as no buildings within the site.

CTY 4 – As noted no buildings on the site that could be converted

CTY 5 – this is single dwelling and social or affordable housing

CTY 6 – No personal or domestic circumstances have been submitted

CTY 7 – No information that the dwelling is for a non-agricultural business enterprise

CTY 8 – There is no line of continuous and built up frontage plus the gap between buildings could accommodate more than two dwellings.

CTY 9 – Application is not for a residential caravan or mobile home

CTY 10 – No Farm case has been submitted, when asked the agent confirmed on the phone that they were not farmers.

From the above it is clear that the site has not complied with any relevant criteria under which CTY 1 allows for a dwelling and therefore I must recommend refusal.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is noted that this is an outline application therefore the exact siting and design details have not been submitted, however as stated the site is quite small in size and there will be limited amenity space as a result. However sits at the lowest part of the site which I am of the opinion that an appropriately designed dwelling would not be prominent in the landscape. Additional landscaping would be necessary for the new boundaries with the retention of as much of the existing landscaping as possible. A landscaping scheme would therefore be necessary in any reserved matters application. Due to the landform and existing development in the area it is felt necessary to restrict the dwelling to a single storey. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As mentioned previously I am content that an appropriately designed dwelling in this location will not

be unduly prominent in landscape, from this I am content that the development is able to respect the pattern of development in the area. I am content on balance that this proposed application will not unduly change the character of the area. On a whole I am content that the proposed development complies with CTY 14.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that in order to for the applicant to create a safe access onto the Loup Road which meets the standards set out in PPS 3 and DCAN 15 as per the in the attached RS1 form. It is noted that the agent failed to show that this could be done within the red line as submitted as visibility splays were never shown.

A consultation was sent to HED due to the proximity of the archaeological site and monument – designed landscape feature however confirmed that they were content in relation to PPS 6. Consultations were also sent to Environmental Health and NI Water who confirmed they had no objection subject to conditions and informatives.

To answer the queries raised by the objector, upon review of the submitted plans and the location of the objectors dwelling I am content that if a dwelling were to be approved in the proposed site that there is sufficient space between the two and privacy should not be adversely affected. With regards the congestion of the laneway DFI Roads have confirmed the access is acceptable and any damage to the laneway would be a civil matter and not for planning to consider. I acknowledge that if approved the dwelling may result in making access to surrounding fields more difficult, but the dwelling has not complied under PPS 21.

As the application has failed to demonstrate its compliance with any of the relevant policies under PPS 21 as stated under CTY 1 therefore I must recommend refusal.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

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 Planning Policy Statement 3, Access Movement and Parking in that the application has failed to demonstrate that a safe access can be achieved within the application site.

Signature(s)

Date:

ANNEX	
Date Valid	12th September 2018
Date First Advertised	27th September 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 17 Loup Road, Money more, Londonderry, BT45 7SN, The Owner/Occupier, 19 Loup Road, Money more, Londonderry, BT45 7SN, The Owner/Occupier, 19a ,Loup Road, Money more, Londonderry, BT45 7SN, The Owner/Occupier, 25 Loup Road, Money more, Londonderry, BT45 7SN, Oliver Moran	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1196/O Proposal: Residential dwelling and garage Address: Adjacent to 19 Loup Road, Money more, Decision: Decision Date: Ref ID: I/2010/0415/F Proposal: Proposed replacement dwelling Address: 19 Loup Road, Dolusky, Money more Decision: Decision Date: 04.11.2010 Ref ID: I/2010/0024/F Proposal: Proposed replacement dwelling Address: 19 Loup Road, Dolusky, Money more, BT45 7SN Decision: Decision Date: 29.06.2010	

Ref ID: I/2005/1467/RM

Proposal: Two storey dwelling & detached garage.

Address: 80m West of 19 Loup Road, Moneymore.

Decision:

Decision Date: 08.03.2006

Ref ID: I/2005/1315/O

Proposal: New dwelling house

Address: 60m North West of 21 Loup Road, Moneymore

Decision:

Decision Date: 08.03.2006

Ref ID: I/2003/0471/O

Proposal: 2 Storey dwelling & detached garage

Address: 80m West of 19 Loup Road, Moneymore

Decision:

Decision Date: 29.10.2003

Ref ID: I/2003/0414/F

Proposal: Replacement dwelling and detached domestic garage

Address: Adjacent to 23 Loup Road, Moneymore

Decision:

Decision Date: 10.09.2003

Ref ID: I/1999/0148

Proposal: Proposed site for dwelling

Address: 120M SOUTH EAST OF 19 LOUP ROAD MONEYMORE

Decision:

Decision Date:

Ref ID: I/1985/0072

Proposal: DWELLING AND GARAGE

Address: DOLUSKEY, MONEYMORE

Decision:

Decision Date:

Ref ID: I/1978/0005

Proposal: REPLACEMENT FARM BUNGALOW

Address: DOLUSKAY, MONEYMORE

Decision:

Decision Date:

Summary of Consultee Responses
Drawing Numbers and Title
<p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. Type: Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p>
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th Dec 2016	Item Number:
Application ID: LA09/2018/1238/F	Target Date: 4 th Jan 2019
Proposal: Retention of existing agricultural storage shed	Location: Approx 20m SW of 31A Culbane Road Portglenone
Referral Route: Refusal recommended	
Recommendation:	Refuse
Applicant Name and Address: Mr Ger McPeake 21A Culbane Road Portglenone BT44 8NZ	Agent Name and Address: Diamond Architecture 77 Main Street Maghera BT46 5AB
Executive Summary: Existing Agricultural Building does not meet the policy tests contained within CTY 12 of PPS 21. It fails to comply with Policy AMP 2 of PPS 3 with regards to the provision of a safe access onto the public road. It also fails to comply with paragraph 2.3 of the SPPS in terms of the impact of the proposal on residential amenity. Refusal is recommend.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DAERA - Coleraine	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

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert for this proposal was placed in local newspapers and 4 adjoining properties were consulted by letter – 33b, 31a, 31b and 31c Culbane Road. To date, no objections have been received.

DAERA and EH have no objections to the proposal. DFI Roads have requested the submission of amended plans and additional information. I have not requested this information as the proposal is unacceptable in principle.

Characteristics of the Site and Area

The application site is a 0.1 hectare plot of land taking in 4 agricultural buildings adjacent to two dwellings at 31a and 31c Culbane Road, Portglenone. The site is just outside the settlement limits of Ballynease as defined in the Magherafelt Area Plan 2015. There is effectively 2 access points to the site coming directly off the Culbane Road. One provides access to the two agricultural sheds closest to the public road. The second access runs down the side of these sheds and is used to access two sheds and 3 dwellings – numbers 31a, 31b and 31c.

This area is generally rural in character with a gently undulating topography. It has experienced a slight build-up of development in recent years, with detached dwellings scattering the locality. The immediate area is not subject to any designations or constraints.

Description of Proposal

This is a full application for the retention of an existing agricultural storage shed that does not benefit from planning approval. It measures 18.m in length, 8.2m in width and 4.5m in height (at its highest point). It is completely open at one side and is currently used for the storage of agricultural machinery.

Planning Assessment of Policy and Other Material Considerations

Planning History

This building does not benefit from any sort of planning permission. It cannot be considered as Agricultural Permitted Development as it is located less than 75m from a third party dwelling. It is subject to on-going enforcement action - LA09/2018/0065/CA.

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

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations. As such, existing rural planning policy should be applied (ie) PPS 21

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS has superseded PPS 1 (General Principles). 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 existing shed is located straight opposite (13.5m) a third party dwelling and 14.0m in front of another third party dwelling. Given these very minimal separation distances it is very evident that this development is having a

negative impact on their privacy. It's positioning and scale is overbearing and in my opinion is a prime example of poor neighbourliness.

The SPPS also gives provision for development in the countryside subject to a number policy provisions, including policy for Agricultural Buildings. It does not present any change in policy direction in this regard, therefore existing rural policy applies (ie) CTY 12 of PPS 21

PPS 3 – Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves utilising an existing laneway. DFI Roads have been consulted and have stated that the existing sight splays are substandard. They recommend splays of 2.4m x 60m. They have also requested submission of TAF so that they can fully consider the impact of the proposal on the public road network. The applicant has submitted information in which he makes a case that there is no intensification therefore upgrading is not necessary. DFI Roads have been consulted with this information but have yet to comment. It would be my opinion that in the absence of DFI Roads agreeing with the applicant in this regard then the proposal, as it stands, fails to comply with policy AMP 2 as it has not been demonstrated that it does not prejudice road safety or inconvenience traffic flow.

PPS21 – Sustainable Development in the Countryside

Policy CTY 12 will permit development on an active and established agricultural holding subject to certain criteria.

PPS 21 states that active and established equates to 6 years. DAERA have been consulted with the applicant's farm details and have advised that the farm business was only established in January 2016 and claims have only been made between 2016-2018. On the basis of this response from DAERA it is clear that the farm business has not been established for the required period as is set down in policy.

The applicant has not submitted any evidence to demonstrate that the existing building is necessary for the efficient use of the holding.

The building is sited in a location where there are a mix of dwellings and agricultural buildings so in terms of character, the existing building is not out of keeping. In terms of its scale I would have concerns. Due to its close proximity to two dwellings its scale appears excessive and overbearing. (See photos below). Whilst it may cluster with adjacent agricultural buildings this in itself does not make it acceptable. It is not located in an area where there are any built or natural heritage issues.





My main concern with this building is the detrimental impact it has on the amenity of residential dwellings outside the holding. The two dwellings that experience the greatest impact are numbers 31a and 31c. Whilst neither occupant has objected to the proposal, it is my duty to consider the impact of this building on these properties. It is evident from the above photograph that the siting of this building is unacceptable. The occupants will undoubtedly experience a loss of privacy due to its insensitive location. As they open their front doors or look out their front windows it dominates their view to an extent that is unacceptable. The shed is currently used for the storing of machinery which will not generate any unacceptable odours. Environmental Health have been consulted and have raised no concerns in respect of unacceptable noise or smells.

CTY 12 clearly states that where a new building is proposed that applicant is required to demonstrate that there are no suitable existing buildings on the holding that can be used. This has not been demonstrated.

The address of the farm business, as provided on the P1C form, is 33a Culbane Road. The applicant has not provided any justification as to why a site away from the main holding should be considered.

Neighbour Notification Checked

Yes

Summary of Recommendation:

On the basis of the above assessment it is my view that the proposal fails to comply with the SPPS in terms of impact on residential amenity, policy AMP 2 of PPS 3 in terms of demonstrating a safe access onto a public road and Policy CTY 12 of PPS 21.

Refusal Reasons

1. The proposal is contrary to Policy CTY 1 and CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the existing agricultural holding is not currently established
- it is not necessary for the efficient use of the agricultural holding
- it is not appropriate to this location due to the scale of the development
- the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of loss of privacy and over dominance.

In cases where a new building is proposed the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.

Additionally in cases where a new building is proposed at an alternative site away from existing farm buildings it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and

- that health and safety reasons exist to justify an alternative site away from the existing farm buildings.
- that the alternative site away is essential for the efficient functioning of the business.

2.The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3 in that it has not been demonstrated that the proposal will not prejudice road safety or significantly inconvenience the free flow of traffic.

3.This proposal is contrary to paragraph 2.3 of the SPPS in that it would unacceptably affect residential amenity and good neighbourliness by impacting on the privacy of adjacent occupants.

Signature(s)**Date:**

ANNEX	
Date Valid	21st September 2018
Date First Advertised	4th October 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 29 Culbane Road Portglenone Londonderry The Owner/Occupier, 29a Culbane Road Portglenone The Owner/Occupier, 31 Culbane Road Portglenone Londonderry The Owner/Occupier, 31a Culbane Road Portglenone The Owner/Occupier, 31b Culbane Road Portglenone The Owner/Occupier, 31c Culbane Road Portglenone The Owner/Occupier, 33 Culbane Road Portglenone Londonderry The Owner/Occupier, 33b Culbane Road Portglenone	
Date of Last Neighbour Notification	27th September 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: H/1998/0536 Proposal: DWELLING AND GARAGE Address: ADJACENT TO 31A CULBANN ROAD PORTGLENONE Decision: Decision Date: Ref ID: H/1994/0360 Proposal: ALTS & ADDS TO DWELLING Address: 31A CULBANE ROAD PORTGLENONE Decision: Decision Date:	

Ref ID: H/1998/0192

Proposal: SITE OF DWELLING AND GARAGE

Address: ADJACENT TO 31A CULBANE ROAD PORTGLENONE

Decision:

Decision Date:

Ref ID: H/2005/0860/F

Proposal: Dwelling & Detached Garage in substitution for previous approval

H/2004/0452/O

Address: Opposite 33 Culbane Road, Ballynease, Portglenone

Decision:

Decision Date: 07.02.2006

Ref ID: H/1999/0117

Proposal: SITE OF RETIREMENT DWELLING

Address: 60M NORTH EAST OF 31 CULBANE ROAD PORTGLENONE

Decision:

Decision Date:

Ref ID: LA09/2018/1238/F

Proposal: Retention of existing agricultural storage shed

Address: Approx 20m SW of 31A Culbane Road, Portglenone,

Decision:

Decision Date:

Ref ID: H/2000/0219/RO

Proposal: Dwelling And Garage

Address: 60 Metres North East Of 31 Culbane Road, Portglenone

Decision:

Decision Date: 17.05.2000

Summary of Consultee Responses

DAERA and EH have no objections to the proposal. DFI Roads have requested the submission of amended plans and additional information. I have not requested this information as the proposal is unacceptable in principle.

Drawing Numbers and Title
<p>Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted</p> <p>Drawing No. 04 Type: Proposed Plans Status: Submitted</p> <p>Drawing No. 01 Type: Site Location Plan Status: Submitted</p> <p>Drawing No. 03 Type: Proposed Plans Status: Submitted</p>
Notification to Department (if relevant) Date of Notification to Department: Response of Department:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: 4 th Dec 2018	Item Number:
Application ID: LA09/2018/1282/O	Target Date: 15 th Jan 2019
Proposal: Dwelling and garage under CTY10	Location: 110m NE of 4 Tamnymullan Lane Maghera
Referral Route: Refusal Recommended	
Recommendation:	Refuse
Applicant Name and Address: Mr Robert Sufferin 15 Tamnymullan Lane Maghera	Agent Name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SG
Executive Summary: Proposal fails to comply with policy CTY 10 of PPS 21 in terms of visual linkage/clustering with buildings on the farm. Adequate health and safety reasons have not been provided for an alternative site away from the farm buildings. The proposal also involves the creation of a new access onto a protected route which is unacceptable and fails to comply with policy AMP 3 of PPS 3.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	NI Water - Single Units West - Planning Consultations	No Response
Statutory	DAERA - Coleraine	No 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

Summary of Issues

There have been no objections to this proposal from any third party.

- DFI Roads have been consulted and have recommended refusal under policy AMP 3 of PPS 3
- DAERA have no objections
- Environmental Health response is currently outstanding.

Characteristics of the Site and Area

The application site is a 0.15 hectare parcel of agricultural land located 110m NE of Tamneymullan Lane, Maghera. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site occupies a roadside position and takes in part of a larger agricultural field. The SW corner of the site is heavily vegetated and the Southern boundary is defined by a band of semi mature trees. The roadside boundary with the Moneysharven Road is void of any mature vegetation but is defined by a thick grass verge and footway. The remaining boundaries are undefined on the ground. The Moneysharven Road (A29) is a designated Protected Route.

This area is generally rural in character although it is not far outside the settlement limits of Maghera. It has a low dispersed settlement pattern, with the predominant form of development being single dwellings and agricultural buildings. There is a substantial build-up of development along Tamneymullan Lane. There is also a Listed Building located up the Lane (HB08/01/020)

Description of Proposal

This is an outline application for a farm dwelling and garage. There are no other planning histories on or adjacent to this site to be considered in this assessment.

Planning Assessment of Policy and Other Material Considerations

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

- Magherafelt Area Plan 2015
- SPPS – Strategic Planning Policy Statement for Northern Ireland
- PPS 3 – Access, Movement and Parking
- PPS21 – Sustainable Development in the Countryside

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015. It is not subject to any area plan designations. As such, existing rural planning policy should be applied (ie) PPS 21

SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS gives provision for development in the countryside subject to a number policy provisions, including policy for dwellings on Farms. It does not present any change in policy direction therefore existing rural policy applies (ie) CTY 10 of PPS 21

PPS 3 – Access, Movement and Parking

This proposal involves the creation of a direct access onto the A29, which is a Protected Route. Policy AMP 3 of PPS 3 will only permit direct access onto a Protected Route in certain circumstances. In respect of Farm Dwellings, the policy states that access should be obtained from an adjacent minor road. Where this can't be achieved that the proposal must make use of an existing vehicular access onto the Protected Route. In this instance there is no adjacent minor road to utilise. Tamneymullan Lane is a private lane and could be utilised, however the applicant has stated on his P1C Form that there is no possibility of him obtaining any sort of permission to use this lane. Whilst there is an existing agricultural opening into the site coming directly off the

A29, PPS 3 specifically states that a filed gate cannot be regarded as an access, so using this is ruled out. There are no other existing accesses onto the Protected Route that can be used. It is therefore evident that this proposal fails to comply with Policy AMP 3 of PPS 3.

PPS21 – Sustainable Development in the Countryside

Policy CTY 10 – Dwellings on Farms

CTY 10 states that planning permission will be granted for a dwelling on a farm where all of the following criteria can be met:

The farm business is currently active and established for at least 6 years.

DAERA have been consulted and have confirmed that the Business ID has been in existence for the required 6 year period. They have also confirmed that this business has submitted claims in the last 6 years. On the basis of all of this response I am satisfied that the farm business can be considered currently active and established for the purposes of CTY 10.

No dwellings/development opportunities have been sold off the holding within 10 years of the date of application.

I have carried out a planning history search of the applicants holding and I am satisfied there are no planning approvals that could be considered as development opportunities to be sold/transferred off.

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

The address of the farm business is 15 Tamneymullan Lane, which is approx. 250m to the NW of the application site. There is no visual linkage or clustering between the site and the buildings at number 15. The applicant has stated on his P1C form that the application site is the only land on the holding that has a road frontage and that there is no possibility of getting a right of way along Tamneymullan Lane, which is used to access number 15. Exceptionally CTY 10 does permit farm dwellings elsewhere on the holding where it is demonstrated that there are health and safety reasons to site elsewhere or where there are verifiable plans to expand the farm business at the existing building group. The applicant has stated that this application site is the only location where a safe access can be provided. I would disagree with this on the basis that a new access here will come directly out onto a Protected Route – the A29, which is an extremely fast road. PPS 3 in this instance does not permit a new access on to a protected route and directs applicants to utilise existing accesses.

Policy CTY 13 – Integration and Design

The application site occupies a roadside plot of land. It rises gently in a northern direction. There is some vegetation surrounding the site which would provide a certain degree of enclosure. An appropriately scaled (5.5m ridge) and sited dwelling on this site would not appear overly prominent in the local landscape. All existing vegetation would have to be conditioned to be retained. New landscaping would not be relied upon primarily as a means of integration. As this is an outline application design is not be considered in detail. As discussed under CTY 10, a dwelling on this site fails to cluster or visually link with buildings on the farm.

Policy CTY 14 – Rural Character

For the reasons noted above I am of the view that a dwelling on this site would not be unduly prominent. A dwelling on this site would not result in a suburban style build-up of development or

a ribbon of development in this particular area and would therefore not negatively impact on rural character.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal is recommended

Refusal Reasons

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:

- the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm
- health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm

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

Signature(s)

Date:

ANNEX	
Date Valid	2nd October 2018
Date First Advertised	18th October 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 10 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 11 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 4 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 6 Tamneymullan Lane Maghera Londonderry The Owner/Occupier, 7 Tamneymullan Lane Maghera Londonderry	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1282/O Proposal: Dwelling and garage under CTY10 Address: 110m NE of 4 Tamnymullan Lane Maghera, Decision: Decision Date:	
Summary of Consultee Responses <ul style="list-style-type: none"> • DFI Roads have been consulted and have recommended refusal under policy AMP 3 of PPS 3 • DAERA have no objections • Environmental Health response is currently outstanding. 	
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:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1323/O	Target Date:
Proposal: Carers dwelling and domestic garage in accordance with Policy CTY 6 of PPS 21	Location: Land approx. 120m West of 21 Legmurn Road Stewartstown
Referral Route: Recommendation to refuse	
Recommendation:	REFUSE
Applicant Name and Address: Archie & Eileen Bowden 21 Legmurn Road Stewartstown BT71 5JR	Agent Name and Address: Mark Nelson Architecture Garden Studio 2 Craigmount Orritor Cookstown BT80 9NG
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

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

Description of Proposal

This an outline planning application for a carers dwelling and domestic garage in accordance with Policy CTY 6 of PPS 21.

The site is located on lands approx. 120 metres west of No. 21 Legmurn Rd Stewartstown.

Characteristics of the Site and Area

The site is located within the open countryside outside any settlement designated by the Cookstown Area Plan 2010.

The site comprises a small triangular shaped plot cut from the most eastern (rear) corner of a much larger agricultural roadside field situated adjacent the Legmurn Rd.

The site is proposed to be accessed off the Legmurn Rd via an existing unaltered access and in part an existing lane serving 3 properties, nos. 15, 17 and 21 Legmurn Rd. Nos. 15 and 17, a dwelling and what appears to be a small car repairs business respectively, are located approx. metres to the southeast of the site. And no. 21, a farm dwelling is located approx. metres to the east of the site bound by a no. of agricultural buildings and sheds.

The existing lane to be used in part to access the site runs along the outside of the southeastern boundary of host field and is bound on both sides by thick mature vegetation. Where a new a lane off the existing lane is proposed it will follow an existing hedgerow which bounds the southeaster host field all the way up to and along the southeastern boundary of the site. The hedgerow continues along the northern boundary of the site. The western boundary of the site which opens up onto the larger field from which it is cut is undefined.

The site occupies quite an elevated position in the landscape as the land rises quite steeply from the Legmurn Rd up to the site. Despite the sites elevated position in the landscape views of it from the public road are extremely limited. There are no views of the site from the Legmurn Rd due to the topography of the area and existing roadside vegetation which screens any potential view. The only view of the site from the surrounding road network is extremely distant, from the Annaghone Rd located approx. 1 mile to the east of the site on the approach to the Coagh Rd.

The site is located in a predominantly rural area comprised primarily of undulating landscaping interspersed by single dwellings and farm groups. There is a wind turbine and telecommunications mast located a couple of fields north of the site. And in addition to the aforementioned dwellings accessed off the existing lane proposed in part to serve the site, a relatively new dwelling is located opposite its access of the Legmurn Rd.

Planning Assessment of Policy and Other Material Considerations

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development
- Cookstown Area Plan 2010
- Planning Policy Statement (PPS) 3 Access, Movement and Parking
 - PPS 3 (Clarification): Access, Movement and Parking
 - Development Control Advice Note (DCAN) 15 Vehicular Access Standards
- PPS 21 Sustainable Development in the Countryside

Planning History

There is no relevant history on site or immediate area.

Representations

Neighbour notification and press advertisements have been carried out in line with the Council's statutory duty. At the time of writing, no third party objections have been received.

Consultations

Transport NI were consulted on this application and have no objection to the proposal subject to standard conditions and informatives.

Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During this transitional period authorities will apply existing policy contained within retained policy documents together with the SPPS. Any conflict between the SPPS and any retained policy must be resolved in favour of the provisions of the SPPS.

As this site is located outside any settlement designated in the Cookstown Area Plan, the policy context is provided by Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21). The SPPS retains PPS21.

Policy CTY1 of PPS 21 states "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 aim of sustainable development". These include dwellings to meet personal and domestic circumstances in accordance with Policy CTY 6 of PPS 21. The SPPS does not supersede the provisions of CTY 6.

Planning Policy CTY 6 - Personal and Domestic Circumstances sets out that planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicants personal or domestic circumstances and provided criteria a) and b) of the same policy are met. Planning permission will be granted for a dwelling in the countryside for the long term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances and provided the following criteria are met: Criterion a) puts the onus on the applicant to provide satisfactory evidence that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

This application has been accompanied by a statement detailing the special personal or domestic circumstances of the applicants. The statement sets out that the applicants Mr Archie Bowden and his wife Mrs Eileen Bowden live at no. 21 Legmurn Road and have done so for over 50 years. In this time they have created a home where they have established a small farm holding and raised a family. That over the last number of years both Archie and Eileen's numerous health conditions have resulted in them requiring a high level of care, supervision and support. Archie and Eileen's main carer is detailed as their granddaughter Kirstie McCammon (currently employed as a podiatrist, member of the Health Care Professions Council and Society of Chiropodists and podiatrists) who currently resides at 104 Old Coagh Rd, Cookstown (approx. 11km from Archie and Eileens home). That this application seeks planning permission for a carer's dwellings to accommodate Kirstie living nearby Archie and Eileen to help with their increasing needs.

Whilst details of the health conditions suffered by Archie and Eileen have been provided and supported by letter from an appropriate health professional, the level of care required detailed, and an explanation of why such care can only be provided at the specific location. It has not been demonstrated that a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused.

Criterion b) encourages the applicant to consider a number of alternative solutions to a new dwelling, such as an extension or annex attached to the existing dwelling; the conversion or reuse of another building within the curtilage of the property; or the use of a temporary mobile home for a limited period to deal with immediate short term circumstances.

Within the statement accompanying this application the alternative solutions to a new dwelling as detailed in criterion b) above have been considered but ruled out for various reasons and I would agree that the extension of the existing property would not be easy given its location within a busy working farm. Nor would the conversion or re-use of another building within the curtilage of the property again due to their location and use within a busy working farm. A temporary mobile home like the carer's dwelling itself, is not considered a solution, as it has not been

demonstrated either would be a necessary response to the particular circumstances of the case.

Given that the statement accompanying this application referred to Archie and Eileen living at no. 21 Legmurn Rd where they have established a small farm holding, later referred to as a busy working farmyard it was noted that a dwelling on a farm under the provisions of CTY 10 was not identified as an alternative solution. As such the agent was contacted and asked had this opportunity been explored.

The agent responded that the case for a dwelling on a farm has not been explored for the reasons outlined below:

1. The applicant is applying for a dwelling under Policy CTY 6 as they believe this is the most relevant and honest policy to reflect their current circumstances.
2. The applicants main carer is their granddaughter (Kirstie McCammon) whom they wish to obtain the dwelling for under Policy CTY 6, to enable her to provide a continuing high level of care, supervision and support. This would also ensure that the applicant maintains a certain degree of independence, without having to leave their family home / farm business - something which they have worked hard to maintain throughout their lives. Genuine hardship and rapid decline in the applicants mental wellbeing would most certainly be caused if they were forced to leave their family home because a continued high level of care could not be maintained.
3. As Kirstie's role is a carer to the applicant, she has no active role in the running of the farm, and the applicant therefore feels it would be detrimental to the continued viability of the farm if a dwelling was pursued under Policy CTY 10 for a carer - a dwelling will only be granted every 10 years for a dwelling on a farm and the applicant has other family members who are actively involved in the running of the farm and will therefore most likely require a farm dwelling in the near future to ensure the continued viability of the farm business.

The proposal does not comply with Policies CTY1 and CTY 6 of PPS 21.

Should Policy CTY 6 be overcome the various tests of Policies CTY 8, 13 and 14 apply. A dwelling on this site would not add to or create a ribbon of development. And it is my opinion that a dwelling of an appropriate design, size and scale with a ridge height no greater than 5.5m above FFL could integrate onto this site and into the surrounding landscape without causing a detrimental change to, or erode the rural character of an area.

Refuse contrary to CTY 1 and 6

Case Officer Recommendation – Refusal

The proposal is contrary to Policies CTY1 and CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the applicant has not provided compelling and site specific reasons why a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been satisfactorily demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

Neighbour Notification Checked

Yes

Summary of Recommendation:

That planning permission be refused subject to the following reason

Reason for Refusal:

1. The proposal is contrary to Policies CTY1 and CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the applicant has not provided compelling and site specific reasons why a new dwelling is a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and it has not been satisfactorily demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

Signature(s)**Date:**

ANNEX	
Date Valid	8th October 2018
Date First Advertised	25th October 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 14 Legmurn Road, Stewartstown, Tyrone, BT71 5JR,	
Date of Last Neighbour Notification	15th October 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2018/1323/O Proposal: Carers dwelling and domestic garage in accordance with Policy CTY 6 of PPS 21 Address: Land approx. 120m West of 21 Legmurn Road, Stewartstown, Decision: Decision Date:	
Ref ID: I/2012/0062/F Proposal: Overhead domestic single phase line on wooden poles (10/09075) Address: 120m S/W of 19 Legmurn Road, Ballywholan, Stewartstown, Decision: Decision Date: 01.05.2012	
Ref ID: I/2003/0079/F Proposal: 1 No. 15 Metre R & T swann sectorised column, equipment storage in '8 cab' arrangement on 5.55m x 3.9m concrete base, 4 No. 600mm communications dishes, 6 no. polar antenna and diricky fenced compound. Address: Land at 21 Legmurn Road, Stewartstown Decision: Decision Date: 21.05.2003	
Ref ID: I/2002/0349/PA	

Proposal: Proposed installation of telecommunications apparatus including 15 metre mast.

Address: Land 200 Metres North of 21 Legmurn Road, Stewartstown

Decision:

Decision Date: 05.07.2002

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 02

Type: Site Appraisal or Analysis

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Malachy McCrystal	
Application ID: LA09/2017/0802/F	Target Date: <add date>
Proposal: Proposed (2 storey) replacement dwelling	Location: No 124 Sixtowns Road Labby Draperstown
Applicant Name and Address: Mr Alastair Clerkin 124a Sixtowns Road Labby Draperstown BT45 7BE	Agent name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Design of a dwelling within the Sperrin's AONB	
Summary of Consultee Responses: One consultation was issued to DfI Roads who suggested appropriate conditions.	
Characteristics of the Site and Area: The site is located approximately half a mile south west of Straw in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located at No 124 Sixtowns Road and consists of a two storey dwelling set back 40m from the edge of the public, a roadside paddock and farm buildings located to the rear of the dwelling and paddock. There are two accesses into the site, one is concrete laneway which serves both the dwelling and the farm, the other runs parallel with the laneway and is only used to serve the dwelling. The southwest boundary is defined by mix of mature deciduous and non-deciduous trees and the northeast (roadside) boundary is defined by 1.5m hedgerow.	
Description of Proposal The application seeks full planning permission for a replacement dwelling and a detached gym. The proposed dwelling has a 15.95m frontage, a gable depth of 10.5m and a ridge height of 9.2m above ground level. A two storey front porch and a flat roof single storey side projection are also proposed. A small detached gym is proposed at the side of the dwelling, the gym measures 8.2m x 5.7m and will have a ridge height of 4.8m above ground level.	

The roof is hipped and the finish is black slates. The wall finish is smooth render painted (off white/pale grey). The chimneys are located on either gable and will not be expressed along the ridgeline.

Deferred Consideration:

This application was presented before the Planning Committee in May 2018 with a recommendation to refuse based on the following reason:

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that construction of the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building and the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape and the design of the proposed building is inappropriate for the site and its locality.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to and policy NH6 of Planning Policy Statement 2: Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Sperrin's Area of Outstanding Natural Beauty in general and of the particular locality.

Following a discussion at that meeting the application was deferred for an office meeting to discuss how the design could be made more acceptable.

The deferred office meeting took place on 10th May 2018, which was attended by Dr Boomer and M McCrystal MUDC and C Cassidy, B Monaghan (Agents) and the applicants and at that meeting the following was discussed:-



Original dwelling



Initial design



Agreed design

There is a need to simplify the design as the proposed design is an amalgamation of a number of unacceptable elements, ie. hipped roof, chimneys, front porch. The roof should be a traditional roof with gable ends, chimneys at gable ends and centred on ridges, a two storey front projection would be acceptable if it is narrow with a single window at first floor level and the portoco roof removed, windows should be designed to be similar to sliding sash with thicker transoms. It was agreed that the gable depth could be retained as it was similar to a dwelling recently approved on a nearby site.

Amended plans were duly submitted which took account of the above issues of concern and which are now considered to be acceptable. The hipped roof has been replaced with a traditional gable ended roof with chimneys at either end and centred on the ridgeline, the windows have a vertical emphasis and resemble sliding sash, the front two storey projection has been removed as have the arched windows. There is a small flat roofed front projection over the front door and which is centred on the front elevation. The side annex now has a flat roof with a small glazed roof-light. The integral car port and gym have also been removed and the stone finish has now been changed to smooth render.

All of the above amendments are acceptable and the design is now considered to be capable of approval.

Conclusion

Given the above situation, it is my opinion that the proposed dwelling can be approved subject to the conditions listed below:-

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. The construction of the dwelling hereby permitted, including the clearing of topsoil, shall not commence until the existing building, coloured green on the stamped approved drawing no. 01 is demolished, all rubble and foundations have been removed and the site restored in accordance with the details on the approved plans.

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

3. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

4. The existing natural screenings along the south western boundaries of this site, shall be permanently retained, augmented where necessary and let grow unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

5. All proposed planting as indicated on the stamped approved drawing no. 02/3 date stamped 31st October 2018 shall be undertaken during the first available planting season following occupation of the dwelling hereby approved.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

6. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

Reason: To ensure the continuity of amenity afforded by existing hedges/trees.

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

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

8. The vehicular access, including visibility splays of 2.4m x 120m in both directions, shall be in place, in accordance with Drawing No. 02/3 date stamp 31st October 2018, prior to the commencement of any other works or other development hereby permitted.

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

9. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0802/F	Target Date:
Proposal: Proposed (2 storey) replacement dwelling	Location: No 124 Sixtowns Road Labby Draperstown
Referral Route: Contrary to CTY 3, 13 & 14 of PPS 21 and NH 6 of PPS 2	
Recommendation:	Refusal
Applicant Name and Address: Mr Alastair Clerkin 124a Sixtowns Road Labby Draperstown BT45 7BE	Agent Name and Address: CMI Planners Ltd 38 Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

Recommended Item

[Signature]

19/4/18

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	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 issues raised.

Characteristics of the Site and Area

The site is located approximately half a mile south west of Straw in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located at No 124 Sixtowns Road and consists of a two storey dwelling set back 40m from the edge of the public, a roadside paddock and farm buildings located to the rear of the dwelling and paddock. There are two accesses into the site, one is concrete laneway which serves both the dwelling and the farm, the other runs parallel with the laneway and is only used to serve the dwelling. The southwest boundary is defined by mix of mature deciduous and non-deciduous trees and the northeast (roadside) boundary is defined by 1.5m hedgerow.

Description of Proposal.

The application seeks full planning permission for a two storey hipped roof dwelling and detached gym.

The proposed dwelling has a 15.95m frontage, a gable depth of 10.5m and a ridge height of 9.2m above ground level. A two storey front porch and a flat roof single storey side projection are also proposed. A small detached gym is proposed at the side of the dwelling, the gym measures 8.2m x 5.7m and will have a ridge height of 4.8m above ground level.

The roof finish is black slates and the wall finish is smooth render painted (off white/pale grey). The chimneys are located on either gable and will not be expressed along the ridgeline.

Planning Assessment of Policy and Other Material Considerations**Relevant Site History:**

No relevant History

Representations:

2 neighbour's notification letters were sent to the occupier Nos 122 & 124a Sixtowns Road, Draperstown.

No letter of representation have been received

Development Plan and Key Policy Consideration:

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherfelt Area Plan 2015: The site is located in the open countryside. The site is also located within the Sperrin's Area of Outstanding Natural Beauty, whilst there is no design guide for this designation, a new dwelling should respect the scale and character of the quiet rural area.

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.

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

PPS 2: Natural Heritage: set out the planning policy for development in an AONB.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

Policy CTY 1 of PPS 21 allows for a replacement dwelling in accordance with Policy CTY3

Policy CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits all the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact.

The picture below depicts the current condition of the existing dwelling. The dwelling appears to be uninhabited, however it is still in a good state of repair and all walls are intact to the front, rear and both gables as well as the roof. The building therefore constitutes a genuine replacement opportunity.

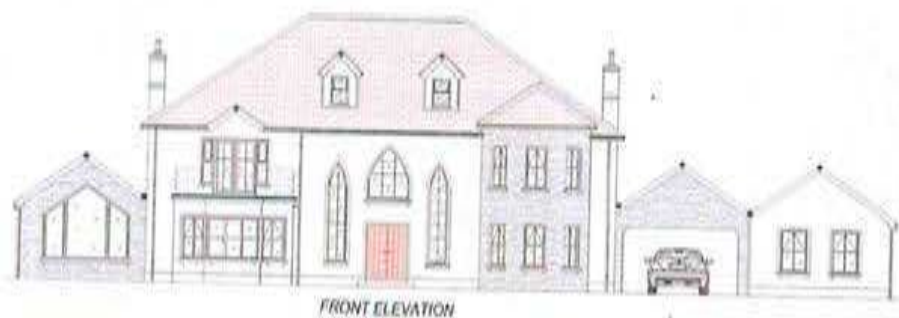


Policy CTY3 differentiates between normal replacement cases and non-listed vernacular dwellings. Annex 2 of PPS21 outlines the characteristics of vernacular dwellings. Whilst the current structure does exhibit some of these characteristics such as linear form with limited gable depth and vertical emphasis windows, the dwelling appears to have been modernised and as a result no longer makes an important contribution to the heritage, appearance or character of the area, therefore I do not see any merit in retaining the structure or incorporating it into the new scheme.

Policy CTY 3 also states that the replacement dwelling should be sited within the established curtilage of the existing building unless it is so restricted that a modest sized dwelling cannot be accommodated or that an alternative position nearby would result in landscape, heritage, access or amenity benefits. Under this application the new dwelling will be located partly within the existing curtilage and the remainder located in an adjacent paddock. The existing curtilage appears too restricted to accommodate a modest size dwelling and there may also be amenity benefits gained by moving the dwelling away from a farm complex located to the rear of the existing dwelling.

CTY 3 states the overall size of the new dwelling should integrate into the surrounding landscape and should not have a visual impact significant greater than the existing dwelling and the design should be of a high quality appropriate to its rural setting and have regard to local distinctiveness.

The image below depicts the original house type submitted with the application. Following discussion with the senior planners, the proposal was considered unacceptable for an AONB and would have a visual impact significantly greater than the existing dwelling.

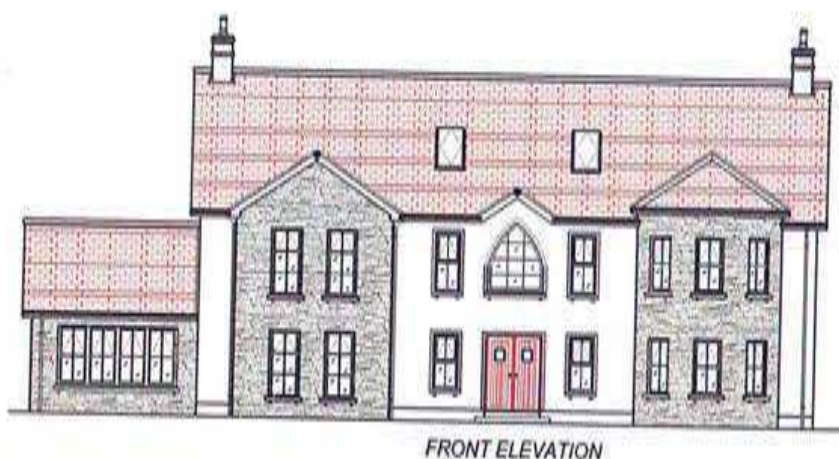


The agent was informed about the Council concerns and requested a meeting to discuss the proposal. At the meeting the agent was advised that the proposal was unacceptable in the AONB because of its visual impact and unacceptable design features such as:

- the hipped roof.
- the mid-roof dormers.
- the bay window and balcony.
- the gothic/arch windows.
- the round front projection.
- the large amount of stone.
- the ridge height (10.7m above GL) and the gable depth (12.2m) were excessive.

The agent agreed to amend the proposal citing that the design had been 'driven by the applicant'.

The image below depicts the revised house type which was received on 22nd November.

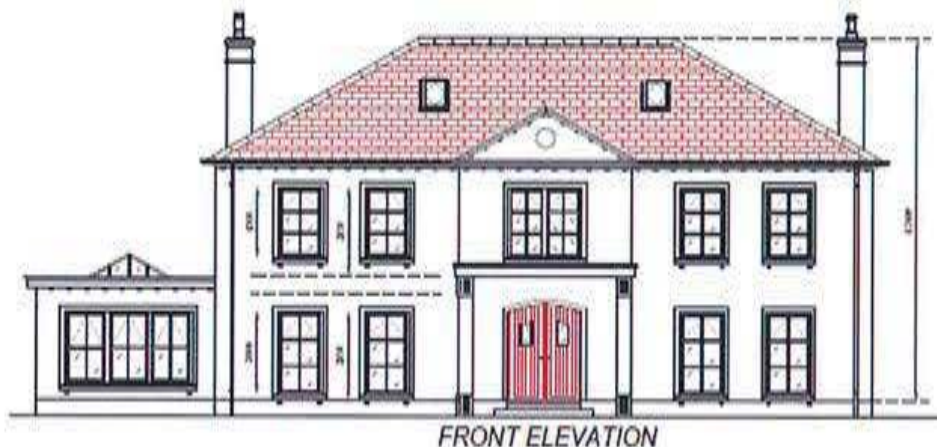


The revised house type shows the hipped roof replaced with a traditional pitched roof, the mid-roof dormers replaced with roof lights and a slight reduction in the ridge height and gable depth. However, the visual impact was still unacceptable, and the introduction of a second front projection and the large amount of stone on the front façade were also unacceptable. The agent was advised that the revised house type was still unacceptable and he asked for feedback on what would be acceptable in the ANOB. An email was sent on 2nd February with a list of required amendments:

1. The ridge height lowered to 8.5m, similar to the existing two storey dwelling.

2. The frontage width reduced to not more than 14m and any side projection(s) step back and step down from the main dwelling.
3. The gable depth reduced to not more than 8m.
4. Only one centralised front projection will be permitted large enough to accommodate a small storm porch.
5. The front elevation should have a simple form with a high solid-to-void ratio (i.e. greater wall surface area than windows and doors).
6. Round projections and arch or gothic window(s) are not acceptable in the ANOB and will not be permitted.
7. The amount of natural stone should be kept to a minimum.

The image below depicts the third revised house type which was received on 16th March.



Whilst some of the amendments outlined above have been made, the proposal has reverted to a hipped roof design which is disappointing given that the agent has already been advised that a hipped roof would not be acceptable in AONB. The agent advises that if the proposal remains unacceptable he would like it taken to the Planning Committee as refusal.

Integration and Rural Character.

The proposed development must also comply with policies CTY 13 and 14.

CTY 13 states that the proposed development should be able to visually integrate into the surrounding landscape and be of appropriate design. The proposal will not integrate into the surrounding landscape due to its significant visual impact and unacceptable design in the AONB. The proposal is contrary to criteria (a) & (e) of CTY 13.

CTY 14 states planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposal will be moved from a well screened and enclosed curtilage into a more open site. When travelling in a north easterly direction towards Straw the proposal will be screened by mature vegetation along the southwest boundary, however travelling in the opposite direction the proposal will be visually prominent in the landscape compared with the existing row of single storey dwellings located northeast of the site. The proposal is contrary to criterion (a) of CTY 13.

Planning Policy Statement 2: Natural Heritage.

PPS 2: Policy NH6 is applicable as the application is located within the Sperrin's AONB and states that permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality. Part (a) of NH 6 states that the siting and scale of the proposal should be sympathetic to the special character of the AONB in general and of the particular locality. Due to the issues discussed above relating to visual impact and design it is considered that the proposal will not be sympathetic to the special character of the AONB.

Part (c) of NH 6 states the proposal must respect local design. The surrounding dwellings have traditional pitched roofs and the introduction of a hipped roof dwelling will look out of character. Whilst I acknowledge there is a hipped roof dwelling at No 126 located 120m south west of the site, this on its own would not be sufficient to justify the proposal. Therefore, the proposal is contrary to policy NH6 of PPS2.

Other Policy and Material Considerations

I am satisfied that the proposal is adequately sited to avoid a significant adverse impact on neighbour amenity and that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking.

Summary of Recommendation: Recommend refusal on the bases of non-compliance with CTY 1, 3, 13 & 14 of PPS 21 and NH 6 of PPS 2

Reasons for Refusal:

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that construction the overall size of the proposed replacement dwelling would have a visual impact significantly greater than the existing building and the design of the replacement dwelling is not of a high quality appropriate to its rural setting and does not have regard to local distinctiveness.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building is a prominent feature in the landscape and the design of the proposed building is inappropriate for the site and its locality.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and therefore would not visually integrate into the surrounding landscape.
4. The proposal is contrary to and policy NH6 of Planning Policy Statement 2: Natural Heritage in that the siting of the proposal is unsympathetic to the special character of the Sperrin's Area of Outstanding Natural Beauty in general and of the particular locality

Signature(s)

Date:

ANNEX	
Date Valid	12th June 2017
Date First Advertised	29th June 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 118 Sixtowns Road Labby Draperstown The Owner/Occupier, 120 Sixtowns Road Labby Draperstown The Owner/Occupier, 122 Sixtowns Road Labby Draperstown The Owner/Occupier, 124a Sixtowns Road, Labby, Draperstown, Londonderry, BT45 7BE,	
Date of Last Neighbour Notification	4th July 2017
Date of EIA Determination	
ES Requested	No
Planning History Ref ID: LA09/2017/0802/F Proposal: Proposed (2 storey) replacement dwelling Address: No 124 Sixtowns Road, Labby, Draperstown, Decision: Decision Date: Ref ID: H/1983/0351 Proposal: DWELLING HOUSE Address: SIXTOWNS ROAD, DRAPERSTOWN Decision: Decision Date: Ref ID: H/1996/0357 Proposal: GARAGE Address: 124A SIXTOWNS ROAD DRAPERSTOWN Decision: Decision Date: Ref ID: H/2004/1329/O Proposal: Site of Dwelling & Garage Address: Between 124a & 126 Sixtowns Road, Draperstown Decision: Decision Date: Ref ID: H/2001/0872/F Proposal: Sun Lounge	

Address: 124A Sixtowns Road, Draperstown

Decision:

Decision Date: 14.12.2001

Ref ID: H/2007/0873/O

Proposal: Site of Dwelling and garage.

Address: To the rear of 122 Sixtowns Road, Draperstown

Decision:

Decision Date: 28.05.2009

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2017/1474/O	Target Date:
Proposal: Proposed Dwelling and Garage under PPS21 CTY10	Location: 250m SE of 6 Churchtown Road Cookstown
Applicant Name and Address: Mark Bell 10 Churchtown Road Cookstown BT80 9XD	Agent name and Address: Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: This is an outline application for dwelling and garage under PPS21 CTY10 and associated with a farm holding. The site is comprised of three distinct areas. The first is a road frontage field with a low cut hedge along the road frontage, the second area is a small heavily wooded area set back behind the first field and the third area is a small well contained paddock with good natural boundaries and again located to the rear of the first field. This third area is the one in which the new dwelling is proposed to be sited. There is a farm track leading to the preferred site which also leads to farm land beyond the site. Within the proposed site there are two small corrugated iron clad sheds measuring approximately 5m x 3m and around 2.5 – 3.0m in height with flat roofs. Both sheds are open at the front. They are constructed with steel box section posts driven into the ground, with timber purlins on the sides	

and roof and clad with iron cladding. The brackets holding the timber purlins onto the steel posts are screwed on with new Tek screws and the sheeting is nailed on with new springhead nails.

Description of Proposal

Proposed Dwelling and Garage under PPS21 CTY10

Deferred Consideration:

Following an office meeting on 14/06/18 with Dr. Boomer, the agent was asked to submit an application for the two sheds on site to ascertain if they can be used as part of the criteria necessary for a farm dwelling case under CTY10.

An application was submitted on 27/06/18 for 'the retention of 2 agricultural sheds', which was subsequently approved on 23/10/18 under LA09/18/0905/f. The two small sheds are currently being used for the shelter and feeding of livestock, and the assessment of the proposal under CTY12 showed all the relevant criteria was met.

In terms of this application for a dwelling and garage on a farm, criteria (c) of CTY10 can now be met, in that the two recently approved sheds can be visually linked the proposed new dwelling. Despite their scale following a site visit, due to their location they can be viewed with the site as per the policy requirement. As this had been the only refusal reason and has now been successfully overcome, I now recommend approval.

Conditions

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

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

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

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

3. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

4. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by the Council and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

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

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

Signature(s):

Date

Development Management Officer Report Committee Application

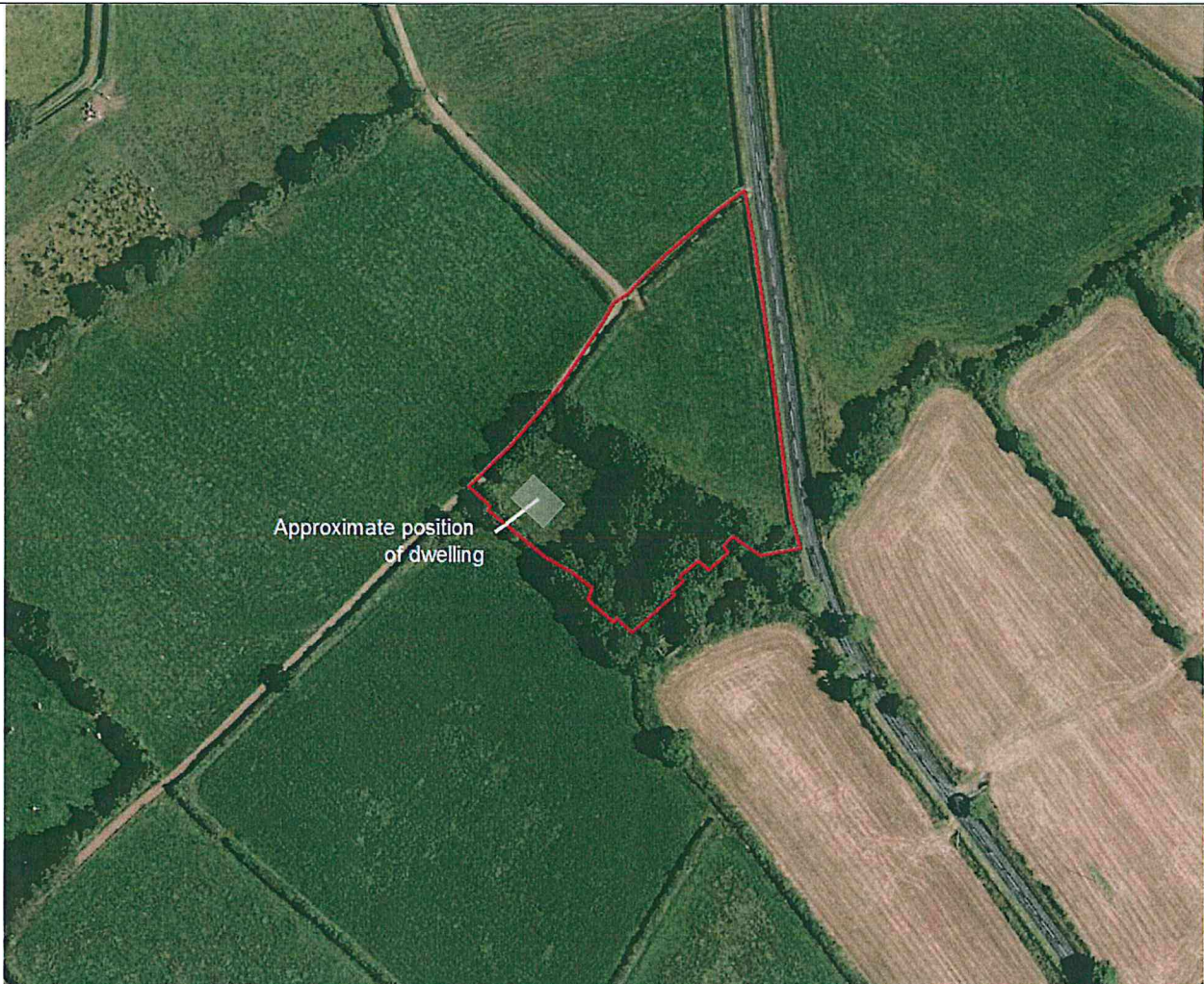
Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1474/O	Target Date:
Proposal: Proposed Dwelling and Garage under PPS21 CTY10	Location: 250m SE of 6 Churchtown Road Cookstown
Referral Route: This application is being presented to Committee as the application is being recommended for refusal.	
Recommendation:	
Applicant Name and Address: Mark Bell 10 Churchtown Road Cookstown BT80 9XD	Agent Name and Address: Kee Architecture Ltd 9a Clare Lane Cookstown BT80 8RJ
Executive Summary:	
Signature(s):	

For committee
decision

24/5/18

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

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 including representations

No objections have been received in respect of this application.

Description of proposal

This is an outline application for dwelling and garage under PPS21 CTY10 and associated with a farm holding.

Characteristics of the site and area

The site is comprised of three distinct areas. The first is a road frontage field with a low cut hedge along the road frontage, the second area is a small heavily wooded area set back behind the first field and the third area is a small well contained paddock with good natural boundaries and again located to the rear of the first field. This third area is the one in which the new dwelling is proposed to be sited. There is a farm track leading to the preferred site which also leads to farm land beyond the site.

Within the proposed site there are two small corrugated iron clad sheds measuring approximately 5m x 3m and around 2.5 – 3.0m in height with flat roofs. Both sheds are open at the front. They are constructed with steel box section posts driven into the ground, with timber purlins on the sides and roof and clad with iron cladding. The brackets holding the timber purlins onto the steel posts are screwed on with new Tek screws and the sheeting is nailed on with new springhead nails.

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

There is no relevant planning history on the application site.

Planning Assessment of Policy and other Material Considerations

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

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

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

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

CTY 10 – Dwellings on Farms

Planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- DAERA's consultation response confirmed that the business has been in existence for more than 6 years and that the business has claimed single farm payment or agri environment payments within the last 6 years.
- A planning history check of the farm shows that no dwellings or development opportunities in the countryside have been sold off from the farm holding since 25th November 2008.
- Although there are two small existing buildings (see photo 1 below) located at this part of the farm holding, the applicant has failed to provide any evidence that they have been in existence for more than five years other than a verbal claim by the planning consultant that the 'buildings were constructed by his family many years ago....' They also state that the sheds are sheltered

by a canopy of mature trees and surrounded by dense vegetation, so the aerial photographs and google streetview images do not help to define the existence of the buildings'. The statement goes on to say "if it is assumed the buildings are established....' which is a clear indication that there is no evidence to support the claim that they have been in existence for the required period of time. The statement also advises that the site clusters with a group of third party farm buildings, however this is of no benefit as it does not meet the requirements of the policy.



Photo 1 – unauthorised farm sheds on site

However, while acknowledging that the two small sheds are located within an area of the site bounded by tall trees and whilst they would be relatively well screened from view on travelling along the Churchtown Road, on checking the Councils ortho-photographic records, there is no indication of these sheds at any time. One such aerial photograph is dated 26.03.2012 (see ortho photo 1 below) and was taken at a time of year when there would not have been any foliage on the trees. Consequently, if the buildings in question had been in existence, one would expect that they would be clearly visible given that the trees along this boundary are tall thin trees with little in the way of crown spread. It should be noted that any subsequent aerial photographs up to the most recent taken on 31.05.2016, also fail to show any indication that the buildings have been in existence. Indeed on measuring from the base of the trees, as defined by the Ordnance Survey maps, the crown spread of the trees in places along the hedge in question extends to less than 2.0m, which is less than the depth of the buildings in question. As the two buildings are set out from the base of the hedge, the crown spread therefore could not be expected to hide the buildings from an aerial view.



Ortho photo 1 – showing crown spread distances and no evidence of existing buildings

It is my considered opinion therefore, in the absence of any unequivocal evidence to support the applicant's case that the buildings have not been in existence for more than five years, subsequently the proposal fails the test in that they are not sited beside buildings on the farm. Indeed the planning consultant has accepted that limited weight can be attached to the claim that the buildings have been in existence for the required time.

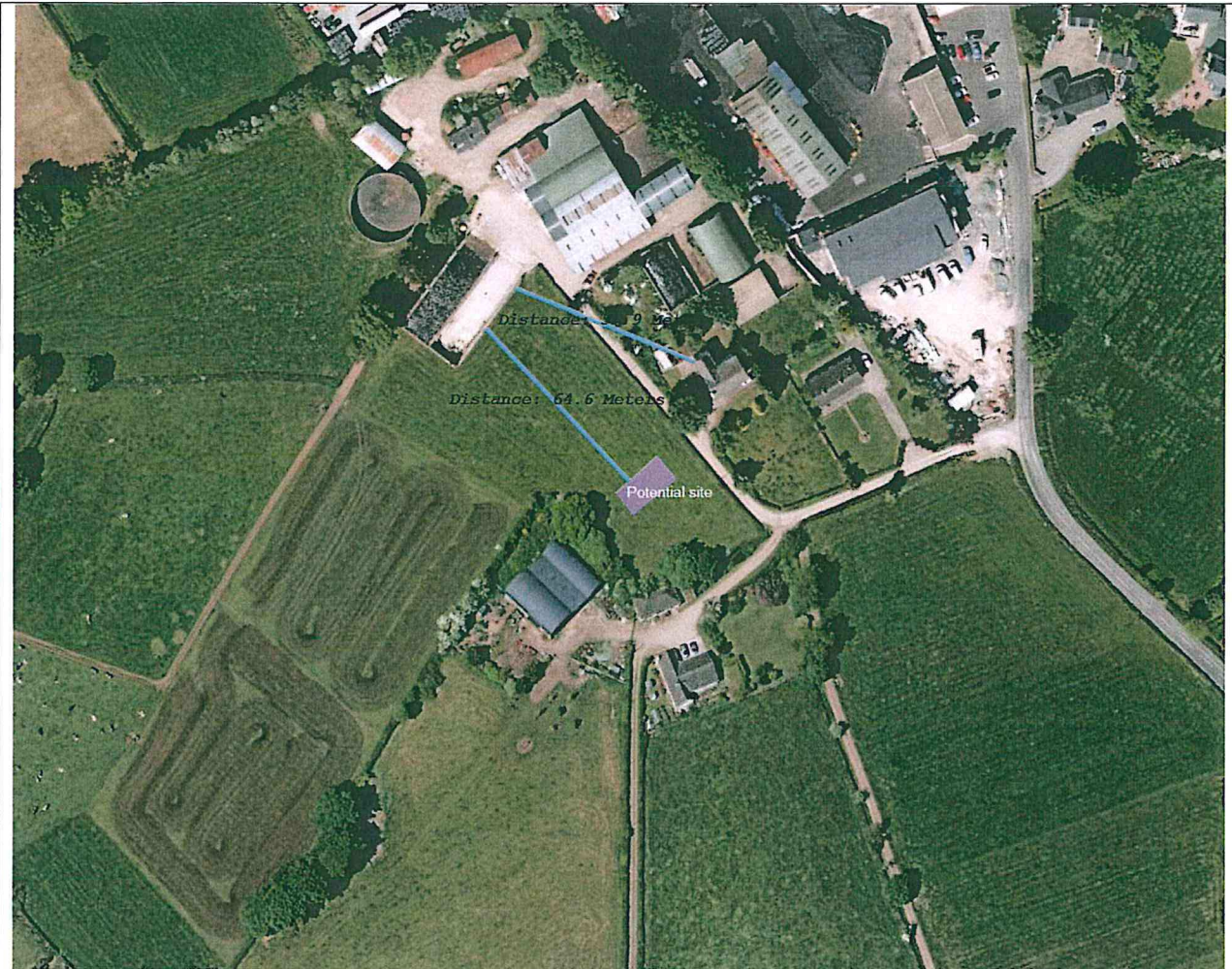
The supporting statement also states that a dwelling may be 'removed from the existing building group' or the visual linkage may be 'virtually non-existent'. However, the statement has taken this advice out of context as the amplification text clearly states that such circumstances relate to sites where 'the existing building group is well landscaped or where a site adjacent to the building group is well landscaped....' The proposed site meets neither of these two situations and therefore is unacceptable in this regard.

The supporting statement goes on to identify 5 potential sites (A to E, see map 1 below) which were considered but have been discounted for various reasons. I agree that sites A and B can be discounted as they are immediately adjacent to the existing farm buildings.



Map 1 showing alternatives sites A – E, in relation to the proposed site and settlement limit

The supporting statement discounts site C as it is 'close to silage pits...', it is earmarked for future expansion of the existing farm yard and that it would mar the distinction between the settlement and the surrounding countryside. However, a dwelling could be constructed on this site with a separation distance in excess of 60m from the said silage pits, which would be further than the applicants existing dwelling (see map 2 below).



Map 2 - potential dwelling on site C, further from silos than the applicants existing dwelling

No planning approvals have been granted for, nor has any verifiable evidence been presented to support the claim of such an extension to the farm yard is imminent. The issue relating to CTY 15 is dealt with later in this report. On balance, therefore site C is considered acceptable as it has a sufficient separation distance from the farm buildings even in terms of Health and Safety.

It is claimed that area D is the front garden of the main farm house. However, on checking the ortho-photography this is clearly not the case as the site in question appears as a rough grass paddock linked to the area to the side of the dwelling and with direct access onto the farm yard (see ortho photo 2 below). The area is also clearly separated from the amenity space by a mature hedge as can be seen from the aerial photography. Furthermore, no planning approval has been granted for an extension to the curtilage of the main dwelling into this site. Consequently, this area can therefore be considered as available for development.



Ortho photo 2 showing paddock area D and site E

Area E (see ortho photo above) is claimed to be satisfactory in terms of amenity but is ruled out due to the potential access issues and in that it would mar the distinction between the settlement of Churchtown and the surrounding countryside. Notwithstanding the access issue, if the suggested site satisfies the requirements of Policy CTY 10 in so far as it is visually linked or sited to cluster with an established group of buildings on the farm, then it would be considered acceptable even when assessed against Policy CTY 15. Furthermore, site E is not considered to be prominent as it sits approximately at road level, it has the benefit of mature trees to the west and the existing two storey dwelling house to the rear (see photo 2 below). Therefore this site can be considered as a potential site for a dwelling on the farm.



Photo 2 – Existing 2 storey farm dwelling with mature trees at road level not considered to be prominent

Regarding the access issues from the existing laneway, the statement advises that the required visibility splays are not available to the left hand side existing and forward sight distances are not available to the right hand side exiting. However, regardless as to whether or not the existing access is up to the required standard, the applicant has the potential to upgrade the existing access or if that is not possible due to third party use, the applicant can create a new laneway paired with the existing laneway as they own the necessary lands to the right hand side exiting. Such an access would then exit on the outside of the bend, thereby meeting all the necessary access standards in terms of visibility splays and forward sight distances.

CTY 13 – Integration and Design of Buildings in the Countryside

Although there are critical views of the overall site on approach from the north due to the low cut roadside hedgerows, however, as the preferred site is located in a small paddock area, is set well back off the Churchtown Road to the rear of mature hedging and which has a good sense of enclosure, a dwelling on that site would normally achieve an acceptable degree of integration and would therefore be acceptable in terms of integration into the surrounding countryside. However, as the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm, it therefore fails to meet this policy test.

CTY 14 – Rural Character

This is an application for a site for a dwelling on a farm holding that is sited to the rear of a natural hedgerow which will effectively screen a dwelling from public view. As there would be no critical views of the proposal, any dwelling on the proposed site will not result in a detrimental change to rural character.

PPS 3 – Access, Movement and Parking;

The proposal is to utilise an existing farm access onto the Churchtown Road. This will require the existing hedgerows at the entrance to be set back to the rear of the required visibility splays.

Transport NI advised that they have no objection to the proposed development subject to conditions.

Recommendation

On consideration of the above, it is my opinion that the proposal fails to meet the requirements of Policies CTY 1, 10 and 13 for the reason stated below.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The application is being recommended for refusal as the site is not visually linked or sited to cluster with an established group of buildings on the farm.

Refusal Reasons

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
the proposed new building is visually linked or sited to cluster with an established group of buildings on the farm;
health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm;
verifiable plans exist to expand the farm business at the existing building group to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.

Signature(s)

Date:

ANNEX	
Date Valid	25th October 2017
Date First Advertised	9th November 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) None	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	N/A
ES Requested	No
Planning History Ref ID: LA09/2017/1474/O Proposal: Proposed Dwelling and Garage under PPS21 CTY10 Address: 250m SE of 6 Churchtown Road, Cookstown, Decision: Decision Date:	
Ref ID: I/2000/0067/O Proposal: Site for dwelling and garage Address: 300m SE of 6 Churchtown Road Churchtown Cookstown Decision: Decision Date: 27.06.2000	
Ref ID: I/2003/0879/O Proposal: Replacement dwelling and garage Address: 300metres (approx) south of 10A Churchtown Road, Rossmore, Cookstown. BT80 9XD Decision: Decision Date: 26.08.2004	
Summary of Consultee Responses No consultees raised any issues of concern	
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:	

Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 6 November 2018 in Council Offices, Ballyronan Road, Magherafelt

Members Present	Councillor Mallaghan, Chair Councillors Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, McEldowney, McKinney, McPeake, Mullen (7.26 pm), Robinson
Officers in Attendance	Dr Boomer, Planning Manager Mr Bowman, Head of Development Management Ms Doyle, Senior Planning Officer Mr McCrystal, Senior Planning Officer Ms McCullagh, Senior Planning Officer Ms McKearney, Senior Planning Officer Mr Marrion, Senior Planning Officer Ms McNally, Council Solicitor Miss Thompson, Democratic Services Officer
Others in Attendance	Applicant Speakers LA09/2018/1128/O Mr Finlay LA09/2017/0628/O Councillor B McGuigan LA09/2018/0467/O Mr Ross

The meeting commenced at 7.01 pm

P138/18 Apologies

Councillors Bateson, McAleer and Reid.

P139/18 Declarations of Interest

The Chair reminded members of their responsibility with regard to declarations of interest.

P140/18 Chair's Business

The Planning Manager highlighted addendum circulated and determination of Planning Appeals Commission in relation to H/2014/0399/F. The Planning Manager stated this was an interesting decision and time would tell if the determination worked.

The Chair, Councillor Mallaghan referred to the below applications which were on the agenda for determination. The Chair sought approval to have these applications deferred /withdrawn from tonight's meeting schedule –

Agenda Item 4.3 – LA09/2016/1481/F - Spray booth extension at existing workshop at 138-140 Dungannon Road, Ballygawley for Barrack Hill Quarries – Defer for submission of additional information.

Agenda Item 4.9 – LA09/2017/0998/F - Retrospective application for top dressing of existing laneway, widening of sight splays at road entrance, widening of chicane, piping approx. 20m of open sheugh at land fronting onto Keerin Road, approx. 625m W of 124 Broughderg Road, Omagh for John O'Neill – Defer for consideration of late objection.

Agenda Item 4.14 – LA09/2018/0522/O - Dwelling and garage at approx. 40m NE of 18 Mulnavoo Road, Derrynoyd, Draperstown for T Bradley – Defer for office meeting.

Agenda Item 4.16 – LA09/2018/0527/O - Change of use from communal land to extension of dwelling curtilage 30m E of 345 Hillhead Road, Knockloughrim for Aubrey Shields – Application withdrawn.

Agenda Item 4.18 - LA09/2018/0805/F - Dwelling with attic accommodation and integrated garage and loft at 1.2km SW of 64 Alderwood Road, Fivemiletown for Markus Fuchsnthaler – Defer for office meeting.

Agenda Item 4.23 – LA09/2018/1139/O – Replacement dwelling and garage 100m W of 39 Gortindarragh Road, Galbally, Dungannon for Eugene and Patricia Hackett – Defer for office meeting.

Proposed by Councillor Bell
Seconded by Councillor McPeake and

Resolved That the planning applications listed above be deferred/withdrawn from tonight's list for consideration.

Matters for Decision

P141/18 Planning Applications for Determination

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

LA09/2016/1040/F Retrospective application for the retention of the single storey portal frame shed and associated site works at lands opposite 8 Ballyheifer Road, Magherafelt, for Nicky Brown

Mr McCrystal (SPO) presented a report on planning application LA09/2016/1040/F advising that it was recommended for refusal. Mr McCrystal also highlighted addendum circulated which included a late request from the agent seeking a deferral of the application in order to allow for the submission of amendments.

Councillor Cuthbertson proposed the deferral of the application as there had been other similar late requests for deferrals received.

The Planning Manager stated that even if the request had been received in time all that was being proposed was screening, the Planning Manager stated that this was not a screening issue but rather a positioning issue.

The Planning Manager referred to the various different situations –

- If there is a request to speak which is received late it is at the discretion of the Chair whether this is accepted.
- If revised plans are submitted that would address issues then the application would be recommended for deferral.
- If late objections are received in relation to an application it would be wise to defer the application as by pushing ahead there could be a chance of judicial review.

The Planning Manager asked the applicant whether they would consider repositioning of the shed.

The applicant stated they would like opportunity to address repositioning of the shed.

On this basis, the Planning stated he would be content to defer the application for one month to allow for the submission of amended plans.

Councillor Robinson seconded Councillor Cuthbertson's proposal.

Resolved That planning application LA09/2016/1040/F be deferred for one month to allow for the submission of amended plans.

LA09/2016/1224/O Site for dwelling adjacent to 76 Dreenan Road, Maghera for Mr Mervyn Hanna

Members considered previously circulated report on planning application LA09/2016/1224/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Kearney and

Resolved That planning application LA09/2016/1224/O be approved subject to conditions as per the officer's report.

LA09/2016/1481/F Spray booth extension at existing workshop at 138-140 Dungannon Road, Ballygawley for Barrack Hill Quarries

Application agreed to be deferred for submission of additional information earlier in meeting.

LA09/2017/0150/O Demolition of workshop and erection of 1 no. 1.5 storey dwelling to the rear of nos. 9 and 11 Adair Gardens, Cookstown for R and F Developments

Members considered previously circulated report on planning application LA09/2017/0150/O which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2017/0150/O be approved subject to conditions as per the officer's report.

LA09/2017/0293/F Housing development of 29 dwellings, private and public amenity spaces, associated roads and waste water treatment plant at lands adjacent to and ESE of Ballygawley Church of Ireland, Church Street, Ballygawley for Salvare Properties Ltd

Members considered previously circulated report on planning application LA09/2017/0293/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Bell and

Resolved That planning application LA09/2017/0293/F be approved subject to conditions as per the officer's report.

LA09/2017/0456/O Housing development (3 pairs of semi-detached and 1 detached dwelling) adjacent to and NW of 3 Tobermore Road, Desertmartin for Sean McElwee

Members considered previously circulated report on planning application LA09/2017/0456/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Bell and

Resolved That planning application LA09/2017/0456/O be approved subject to conditions as per the officer's report.

LA09/2017/0622/F Change of use from farm building to dog grooming studio at 30 Lismoney Road, Cookstown for Clare Coney

Ms McCullagh (SPO) presented a report on planning application LA09/2017/0622/F advising that it was recommended for refusal. Ms McCullagh also highlighted addendum which referred to the following additional reason for refusal –

The proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

Councillor Bell proposed that the application be deferred for one month to allow for information required to be submitted.

Councillor McKinney seconded Councillor Bell's proposal.

Resolved That planning application LA09/2017/0622/F be deferred for one month to allow for submission of required information.

LA09/2017/0926/F Farm buildings as machinery shed and beef shed with underground slurry tank at junction of Whitetown Road and Roughan Road, Newmills, Dungannon for Marie and Patrick McAvoy

Members considered previously circulated report on planning application LA09/2017/0926/F which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor Kearney and

Resolved That planning application LA09/2017/0926/F be approved subject to conditions as per the officer's report.

LA09/2017/0998/F Retrospective application for top dressing of existing laneway, widening of sight splays at road entrance, widening of chicane, piping approx. 20m of open sheugh at land fronting onto Keerin Road, approx. 625m W of 124 Broughderg Road, Omagh for John O'Neill

Application agreed to be deferred to consider late objection earlier in meeting.

LA09/2017/1104/F 2 no. detached dwellings 35m W of 20 Jockey Lane, Moy for Mr G Hughes

Members considered previously circulated report on planning application LA09/2017/1104/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor McKinney and

Resolved That planning application LA09/2017/1104/F be approved subject to conditions as per the officer's report.

LA09/2017/1292/O Housing development of 10 semi-detached dwellings and 1 detached dwelling located S of St Lurach's Gardens, Glen, Maghera for Jonathan Warnock

Members considered previously circulated report on planning application LA09/2017/1292/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Robinson and

Resolved That planning application LA09/2017/1292/O be approved subject to conditions as per the officer's report.

**LA09/2017/1511/O Site for semi-detached dwellings immediately S of 7
Desertmartin Road, Moneymore for Mr John Devlin**

Members considered previously circulated report on planning application LA09/2017/1511/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McKinney and

Resolved That planning application LA09/2017/1511/O be approved subject to conditions as per the officer's report.

LA09/2018/0346/F Retention of dwelling in substitution for dwelling approved under M/2006/0855 and retention of dwelling on applicant's farm holding at 120m NW of 81 Killyliss Road, Dungannon for Gary McCann

Members considered previously circulated report on planning application LA09/2018/0346/F which had a recommendation for approval. Mr Marrion (SPO) also referred to addendum in which a late objection had been received, Mr Marrion advised that the objector's concerns were dealt with within the officer report.

Proposed by Councillor Robinson
Seconded by Councillor McPeake and

Resolved That planning application LA09/2018/0346/F be approved subject to conditions as per the officer's report.

LA09/2018/0522/O Dwelling and garage at approximately 40m NE of 18 Mulnavoo Road, Derrynoyd, Draperstown for T Bradley

Application agreed to be deferred for office meeting earlier in meeting.

LA09/2018/0527/O Infill dwelling and garage at land adjacent to 106 Tirkane Road, Maghera for Paul Convery

Ms McCullagh (SPO) presented a report on planning application LA09/2018/0527/O advising that it was recommended for refusal.

Councillor Mullen entered the meeting at 7.26 pm during presentation of above report.

In response to Councillor Bell's question Ms McCullagh advised that the application is in the countryside.

Proposed by Councillor Mallaghan
Seconded by Councillor McKinney and

Resolved That planning application LA09/2018/0527/O be refused on grounds stated in the officer's report.

LA09/2018/0723/F Change of use from communal land to extension of dwelling curtilage 30m E of 345 Hillhead Road, Knockloughrim for Aubrey Shields

Application withdrawn.

LA09/2018/0783/F Alterations and extension to original nursing home building with front extension to incorporate new build home and rear extension, retention of existing access to Ballyheifer Road at Milesian Manor Nursing Home, 9 Ballyheifer Road, Magherafelt for Macklin Group

Members considered previously circulated report on planning application LA09/2018/0783/F which had a recommendation for approval.

Proposed by Councillor Bell
Seconded by Councillor McKinney and

Resolved That planning application LA09/2018/0783/F be approved subject to conditions as per the officer's report.

LA09/2018/0805/F Dwelling with attic accommodation and integrated garage and loft at 1.2km SW of 64 Alderwood Road, Fivemiletown for Markus Fuchsnthaler

Application agreed to be deferred for office meeting earlier in meeting.

LA09/2018/0862/RM Dwelling and domestic garage/store 40m S of 82 Sherrigrim Road, Stewartstown for Mrs Alison Rea

The Chair, Councillor Mallaghan stated that speaking rights were requested and granted for this application however the objector had advised they would not be in attendance tonight.

Members considered previously circulated report on planning application LA09/2018/0862/RM which had a recommendation for approval. Mr Marrion (SPO) also referred to addendum in which the objector had submitted a late objection, the officer advised that the issues raised in the objection had been addressed in the report.

Proposed by Councillor Bell
Seconded by Councillor Robinson and

Resolved That planning application LA09/2018/0862/RM be approved subject to conditions as per the officer's report.

**LA09/2018/1059/RM Dwelling and domestic garage/store approximately 30m
ENE of 52 Five Mile Straight, Draperstown for Mr Aidan
McGuigan**

Members considered previously circulated report on planning application LA09/2018/1059/RM which had a recommendation for approval.

Proposed by Councillor McPeake
Seconded by Councillor McKinney and

Resolved That planning application LA09/2018/1059/RM be approved subject to conditions as per the officer's report.

**LA09/2018/1124/O Dwelling and domestic garage/store at 20m ENE of 22
Strawmore Road, Straw, Dungannon for Mr Stephen McGlade**

Members considered previously circulated report on planning application LA09/2018/1124/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor Kearney and

Resolved That planning application LA09/2018/1124/O be approved subject to conditions as per the officer's report.

**LA09/2018/1128/O Dwelling and garage 40m W of 55 Annaghmore Road,
Castledawson for Mr A McMullan**

Ms McCullagh (SPO) presented a report on planning application LA09/2018/1128/O advising that it was recommended for refusal.

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

Mr Finlay referred to the reasons for refusal and stated that if the requirements of policy CTY2a were met then the other reasons would become redundant.

Mr Finlay stated that the proposal had been submitted in order for the applicant to live beside their parents, the proposal would consolidate with existing buildings and a new building would not intrude on other buildings other than the applicant's parents. Mr Finlay advised that no objections had been received in respect of the application.

In respect of the proposal being out of character in the area Mr Finlay stated that there were other similar instances which had been approved in the area. Mr Finlay also referred to two recent planning appeal determinations which should be taken into consideration.

The Chair, Councillor Mallaghan asked if the items in blue on the map shown were all built.

Mr Finlay stated this was correct.

The Planning Manager stated that the agent had also made a request to have the application deferred but advised that Members had enough information to make a decision on the application.

The Planning Manager stated that the application would be screened by houses in front of it and that as it will not be seen it would not have an impact on rural character. The Planning Manager stated this was a tricky application and stated that if the application was to be sited on the other side of the road it would be refused. The Planning Manager suggested conditions on which the application could be approved.

In response to Councillor Clarke's question Mr Finlay advised that the land in and around the application site was fairly flat.

Councillor Clarke proposed the approval of the application.

Councillor McKinney seconded Councillor Clarke's proposal.

Resolved That planning application LA09/2018/1128/O be approved subject to conditions in relation to orientation, height restriction and TransportNI conditions.

LA09/2018/1139/O Replacement dwelling and garage 100m W of 39 Gortindarragh Road, Galbally for Eugene and Patricia Hackett

Application agreed to be deferred for office meeting earlier in meeting.

LA09/2018/1221/F Provision of 4 no. 5m LED street lights to existing access road and 9 no. 8m LED street lights to existing car park at Derrylaughan Kevin Barry's GAC, 92 Ballybeg Road, Dungannon for Jack Corr

Mr Marrion (SPO) advised that the proposal should now read – "Provision of 13 no. 5m LED street lights to existing road and car park at Derrylaughan Kevin Barry's GAC, 92 Ballybeg Road, Dungannon for Jack Corr."

As Council is the agent for this application all Members present (Councillors Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McEldowney, McKinney, McPeake, Mullen, Robinson) declared an interest in this application.

Members considered previously circulated report and amended proposal description on planning application LA09/2018/1221/F which had a recommendation for approval.

Proposed by Councillor McPeake
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2018/1221/F be approved subject to conditions as per the officer's report.

LA09/2015/0782/F Change of use to storage and distribution unit (Class B4) at site 60m N of 52 Ballymoghgan Road, Magherafelt for Cloane Properties Ltd

Members considered previously circulated report on planning application LA09/2015/0782/F which had a recommendation for approval.

Councillor McKinney asked how this application was now being proposed as an approval.

Mr McCrystal stated that following a meeting with DfI Roads survey plans were submitted which showed that visibility splays could be achieved.

The Planning Manager stated that as this was a retrospective application and the building was already in situ he suggested that if the Committee were minded to approve the application that the certificate be held until it is shown that the visibility splays are in place. If a period of time passes (60 days) and the visibility splays are not in place then the application would be returned to Committee.

Councillor Cuthbertson stated he believed there was an enforcement case related to this application and asked when it would become immune from prosecution.

The Planning Manager stated he did not think there was an enforcement notice related to this application.

Mr McCrystal stated he was fairly certain the business had not been operating five years ago.

The Planning Manager suggested that the Committee proceed with approving the application subject to visibility splays being put in place.

Councillor McKinney stated that if there was enforcement relating to the application then the Committee should be advised.

Proposed by Councillor McPeake
Seconded by Councillor McElDowney and

Resolved That planning application LA09/2015/0782/F be approved but that approval certificate be held for 60 days subject to visibility splays being put in place with a further condition relating to the retention of visibility splays. If visibility splays are not in place after this time then the application will be returned to Committee.

LA09/2016/0848/O Dwelling and garage 24m N of 93 Five Mile Straight, Bracaghreilly, Maghera for Colm Lynn

It was advised that new information had been submitted in relation to this application.

Proposed by Councillor McPeake
Seconded by Councillor Robinson and

Resolved That planning application LA09/2016/0848/O be deferred for consideration of new information.

LA09/2016/1513/F Erection of new store and 1 residential apartment at 2-4 Glen Road, Maghera for Mr Peter McKenna

Members considered previously circulated report on planning application LA09/2016/1513/F which had a recommendation for approval.

Proposed by Councillor McEldowney
Seconded by Councillor McKinney and

Resolved That planning application LA09/2016/1513/F be approved subject to conditions as per the officer's report.

LA09/2016/1793/F Housing development of 18 detached dwellings, associated site works and landscaping and on site waste water treatment plant details at lands opposite (SE) of 17-31 Benburb Road, Moy for Chris Traynor

Members considered previously circulated report on planning application LA09/2016/1793/F which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Mullen and

Resolved That planning application LA09/2016/1793/F be approved subject to conditions as per the officer's report.

LA09/2017/0628/O Dwelling and garage 60m W of 26 Ballydermot Road, Bellgahy for Declan Diamond

Mr McCrystal (SPO) presented a report on planning application LA09/2017/0628/O advising that it was recommended for refusal.

The Chair, Councillor Mallaghan stated that speaking rights had been requested on the application but that these had already been spent by the agent previously.

Councillor B McGuigan stated that the applicant had obtained a report from an independent roads engineer in relation to access and visibility issues at alternative proposed site on Deerpark Road. This report stated that necessary visibility splays could not be achieved at this location and that there would be further conflict in introducing a shared laneway between a dwelling and a farm as this would cause an additional hazard. Councillor McGuigan stated that DfI Roads have confirmed that suitable access can be achieved at proposed site at Ballydermot Road.

The Planning Manager outlined on the map shown how access could be achieved at site at Deerpark Road.

Councillor McPeake stated he found it difficult to have no images to refer back to within papers for deferred applications.

The Planning Manager stated that the proposal put forward failed policy test CTY10 in that it was not visually linked to buildings on a farm as there were no buildings at the proposed site. The Planning Manager stated that a possible alternative site had been identified.

Councillor McPeake stated he believed there were objectors to the application site and was not convinced access at the alternative site was achievable

The Planning Manager stated that an exception to policy can be given for health and safety issues or further expansion of a farm. The Planning Manager stated that as no reason had been given for an exception it was difficult to see how the application could be approved.

Councillor Clarke asked if the applicant had any farm buildings elsewhere.

Mr McCrystal stated there were no buildings that planning officers were aware of.

Councillor Clarke stated that if the applicant buys and sells cattle and sells off all stock prior to winter they would not need a farm building and that this was a gap in policy.

The Planning Manager stated that the applicant did have buildings on the farm which were not farm buildings.

Councillor Clarke felt there was too much emphasis in policy on having farm buildings.

The Planning Manager stated that policy refers to buildings on a farm but that these did not necessarily have to be farm buildings.

Councillor Clarke stated that the policy did not always fit the circumstances.

Councillor McPeake stated he still believed there was no safe access at the alternative site. The Councillor continued that the objector to the application was content with the alternative siting of proposal at Ballydermot Road.

The Planning Manager stated that the objector to the application was still objecting and had stated that if the application were to be approved it should be sited at a suitable distance from his own dwelling. The Planning Manager stated that the application should be refused as it stands but that the position may change in the future.

The Chair, Councillor Mallaghan highlighted that the application was currently against planning policy.

Councillor McPeake asked if the Committee had ever approved a similar application in which no buildings have been present.

The Planning Manager stated that an approval may have been achieved when there was clear justification to do so and highlighted the two reasons for exception as being health and safety issues and further expansion of the farm.

Councillor B McGuigan stated that the applicant was unable to obtain a mortgage for the proposed site.

The Planning Manager advised that this was not a material planning consideration.

Councillor McPeake proposed that the application be deferred in order to submit further evidence.

The Planning Manager stated that this application had been in the planning process for a long time and it would appear to an observer that Council do not want to make a decision on it. The Planning Manager stated that the applicant had ample opportunity to submit information and Members had enough information to make a decision.

Councillor Glasgow stated he did not see how any further progress could be made in deferring the application and proposed its refusal.

Councillor Bell asked if a house was built on the alternative site being suggested would this not cause difficulties if the applicant wanted to expand the farm business at a later date.

The Planning Manager stated that the comments were all “what ifs”.

Councillor Gildernew stated he would like the advice of the Council Solicitor on deferring/approving/refusing the application.

The Council Solicitor stated it was ultimately up to the Committee to make a decision but that there did not appear to be any reason why deferring the application would progress the matter any further.

In response to Councillor McKinney’s question Mr McCrystal advised that there were handling pens situated at the proposed site.

The Planning Manager stated these pens are considered as units of enclosure and not farm buildings.

Councillor McKinney seconded Councillor Glasgow’s proposal to refuse the application.

Resolved That planning application LA09/2017/0628/O be refused on grounds stated in the officer’s report.

LA09/2017/0864/O Dwelling and basement garage to the rear of 14-16 Morgan Drive, Cookstown for Ms Anne Mulligan

Members considered previously circulated report on planning application LA09/2017/0864/O which had a recommendation for approval.

Proposed by Councillor Robinson
Seconded by Councillor McKinney and

Resolved That planning application LA09/2017/0864/O be approved subject to conditions as per the officer's report.

LA09/2017/1112/O Dwelling and garage approximately 60m WSW of 5 Cloane Lane, Cloane, Five Mile Straight, Draperstown for Danny Grant

Members considered previously circulated report on planning application LA09/2017/1112/O which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Clarke and

Resolved That planning application LA09/2017/1112/O be approved subject to conditions as per the officer's report.

LA09/2017/1371/O 2 storey dwelling and domestic store/garage at 130m S of 38 Tirgan Road, Tirgan, Moneymore for Declan Connery

Members considered previously circulated report on planning application LA09/2017/1371/O which had a recommendation for approval.

The Chair, Councillor Mallaghan stated that speaking rights were requested for this application however the objector's representative had advised they would not be availing of this opportunity tonight.

Mr McCrystal (SPO) advised that a further objection had been received from the objector's representative today as per addendum circulated. Mr McCrystal stated that all objections had been dealt with in the report and that a further meeting was requested, Mr McCrystal suggested that this request be refused as a meeting had been offered in the last month but had not been availed of.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2017/1371/O be approved subject to conditions as per the officer's report.

LA09/2017/1685/O Site for infill dwelling and domestic garage at 60 m SW of 72 Deerpark Road, Castledawson for Mr P Keenan

Members considered previously circulated report on planning application LA09/2017/1685/O which had a recommendation for approval.

Proposed by Councillor McPeake
Seconded by Councillor Kearney and

Resolved That planning application LA09/2017/1685/O be approved subject to conditions as per the officer's report.

Councillor Glasgow left the meeting at 8.37 pm.

LA09/2018/0041/O Dwelling and garage approximately 50m SE of 94 Kilrea Road, Portglenone for Mr Raymond Henry

Members considered previously circulated report on planning application LA09/2018/0041/O which had a recommendation for approval.

Proposed by Councillor Kearney
Seconded by Councillor McPeake and

Resolved That planning application LA09/2018/0041/O be approved subject to conditions as per the officer's report.

LA09/2018/0042/O Dwelling at 20m W of 15 Derrynoyd Lane, Moneyneena for Aaron Kelly

Members considered previously circulated report on planning application LA09/2018/0042/O which had a recommendation for approval.

Proposed by Councillor Clarke
Seconded by Councillor McEldowney and

Resolved That planning application LA09/2018/0042/O be approved subject to conditions as per the officer's report.

LA09/2018/0467/O Site for dwelling and garage at 100m NE of 15 Ballydermot Road, Castledawson for Mark Diamond

Ms McCullagh (SPO) presented a report on planning application LA09/2018/0467/O advising that it was recommended for refusal.

Councillor Glasgow returned to the meeting at 8.40 pm during presentation of above report.

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

Mr Ross stated that the reasons for refusal centred around whether the proposal was located in a cluster and at a focal point. Mr Ross stated that there were several distinct groups of dwellings in the surrounding area and in the immediate vicinity there were four dwellings. Mr Ross stated that this cluster was centred around the crossroads and that the proposal would help to consolidate this cluster.

Mr Ross referred to the question of what a crossroads is and stated that whilst the concrete lane is not an adopted road it served nine dwellings, which he felt was more

than some adopted roads did, and that in practical terms there was a crossroads at this location.

Mr Ross stated that the site did have a sense of enclosure and asked that the application be approved.

The Planning Manager stated that the application failed the test in that it did not meet the definition of a crossroads within policy.

Councillor Gildernew stated that there was no doubt there was a cluster at the proposed location but that it was unfortunate that the laneway was not adopted.

In response to Members questions Ms McCullagh clarified that the photograph showed the road sign for Ballydermot Road at the end of the lane.

The Planning Manager stated that in most towns there are laneways which are used that are not adopted roads.

Councillor Robinson stated that the proposal was not in an isolated position as there were a number of other dwellings nearby.

The Planning Manager stated that the proposal also failed to have development on two sides.

In response to Councillor Clarke's question as to what would happen if the application had been for three dwellings the Planning Manager stated it would still fail policy tests and read from policy.

Councillor Gildernew expressed some concern that there may be opportunity for a developer to build a number of social houses on the site whilst a person who has lived in the area all their lives could not build one dwelling.

The Planning Manager read from Policy CTY5 again and explained that the policy was a bit tighter than that.

Councillor McKinney asked if the proposal was moved closer into the triangled part of the site whether this would be acceptable.

Councillor Bell did not feel the dwelling would have a negative impact on the surrounding area if built.

The Planning Manager stated that Members arguments were related to what they felt policy should be instead of what it is. The Planning Manager stated that the key issues relating to the proposal were that it was not associated with a focal point and the site was bounded on at least two sides.

Proposed by Councillor Mallaghan
Seconded by Councillor Gildernew and

Resolved That planning application LA09/2018/0467/O be refused on grounds stated in the officer's report.

LA09/2018/0902/RM One and half storey dwelling and garage with upper level office and associative site works at site adjacent to 10 Derryloughan Avenue, Coalisland for Gerard McCann

Members considered previously circulated report on planning application LA09/2018/0902/RM which had a recommendation for approval.

Proposed by Councillor Gildernew
Seconded by Councillor Clarke and

Resolved That planning application LA09/2018/0902/RM be approved subject to conditions as per the officer's report.

LA09/2018/1148/F Construction of new vehicular access onto Old Eglish Road (revised position), Black Lane, Dungannon for Dungannon United Youth

All Members present (Councillors Bell, Clarke, Cuthbertson, Gildernew, Glasgow, Kearney, Mallaghan, McEldowney, McKinney, McPeake, Mullen, Robinson) declared an interest in this application as the proposal is sited on Council land.

Members considered previously circulated report on planning application LA09/2018/1148/F which had a recommendation for approval.

Proposed by Councillor McKinney
Seconded by Councillor Cuthbertson and

Resolved That planning application LA09/2018/1148/F be approved subject to conditions as per the officer's report.

The Chair, Councillor Mallaghan requested that in relation to deferred applications he would like the original report which was presented included in the papers along with what had changed/was being amended. The Chair also requested that images being presented at the meeting be included within papers.

Members were in agreement with the Chair's requests.

Matters for Information

P142/18 Minutes of Planning Committee held on 2 October 2018

Members noted minutes of Planning Committee held on 2 October 2018.

Councillors McKinney and Robinson left the meeting at 9.04 pm

Local Government (NI) Act 2014 – Confidential Business

Proposed by Councillor Bell
Seconded by Councillor McEldowney and

Resolved In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P143/18 to P146/18.

Matters for Information

P143/18 Confidential Minutes of Planning Committee held on 2 October 2018

P144/18 Receive Enforcement Report

P145/18 Enforcement Cases Opened

P146/18 Enforcement Cases Closed

P147/18 Duration of Meeting

The meeting was called for 7 pm and concluded at 9.35 pm.

Chair _____

Date _____



ADDENDUM TO PLANNING COMMITTEE AGENDA

FOR PLANNING COMMITTEE MEETING ON: 6th November 2018

Chairs Business:

- **H/2014/0399/F**

Pig fattening shed (to contain 900 pigs) with feed bin at
Land off Cahore Road, approximately 100m east of
11A Tonaght Road, Draperstown,
Appeal decision upheld; permission granted.

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

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.1	Late request from the agent seeking a deferral to allow the submission of amendments	Members to note
4.7	Additional refusal reason; The proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.	For members to note

4.9	Withdrawn for further consideration of late objections.	Members to note and consider
4.13	Late objection received	Members to note and consider
4.16	Application has been withdrawn	For members to note
4.19	Late objection received Objector has advised he will not be attending the meeting	Members to note and consider
5.8	Late objection received 6 th November 2018	Members to note and consider