



Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2017/0319/F	Target Date:
Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Revised Odour Impact Assessment received)	Location: 70m South of 177 Annagher Road Dungannon
Applicant Name and Address: DMAC Engineering 204 Washing Bay Road, Dungannon	Agent name and Address: CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
Summary of Issues: previous report to Committee identified concerns relating to amenity of nearby residents due to odour. Members have since visited the site on the 23 July 2021.	
Summary of Consultee Responses: Latest Env Health response indicates no objections subject to conditions following a revised odour impact assessment report. Further local objection received and considered since the last report and subsequent site visit by members.	

Characteristics of the Site and Area:

DMAC engineering site, Annagher Road, Dungannon.

Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line

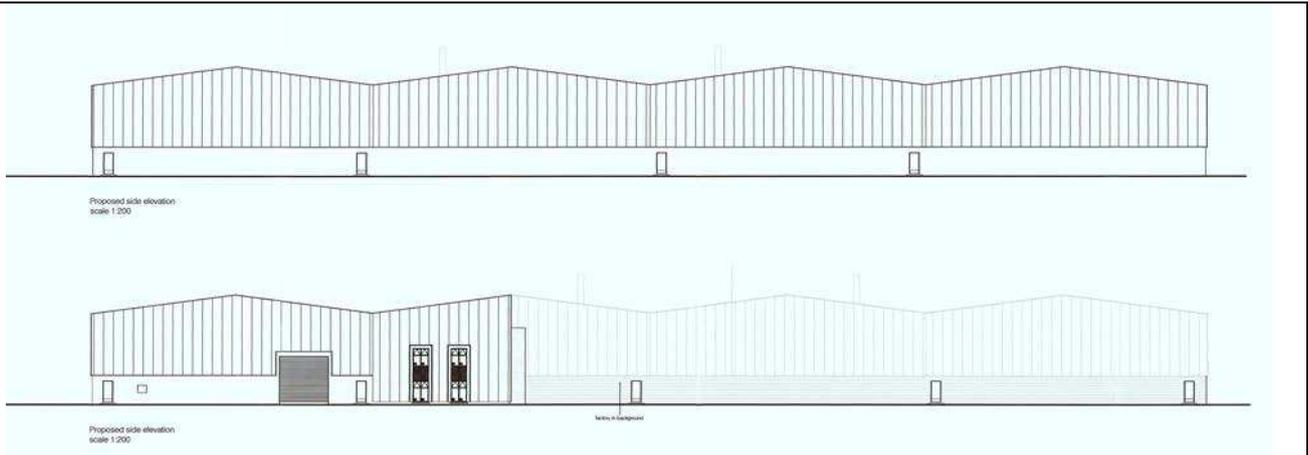
Deferred Consideration:

This report is an updated position on this application following the decision of members at the July 2021 meeting to visit the DMAC site and adjoining third party property. Members, with the assistance of the DMAC operators, viewed the plant and the entire process carried out there and witnessed the internal and external means of extraction and viewed the surrounding outdoor yard and other areas, including lands to the south containing the recently approved men's shed. Following this a visit was paid to Mr Dooley's dwelling at No 181 where the occupants, along with Mr and Mrs J Hughes (36 Washingbay Road) and Mr Campbell of No 183 were also present. This included a walk onto the Annagher road to view level similarities between the tops of the DMAC flue stacks and residential property. In addition lands to the rear of the farm yard were walked which abut the boundary of the DMAC site, in doing so residents also pointed out the cattle sheds and their close proximity to the DMAC site where livestock is overwintered and their concerns again about animal welfare.

As members will recall, the original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

(approved elevations for DMAC showing 2 flues)



An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

This application was originally submitted on the 3 Mar 2017 and was a being to relocate 2 chimney stacks under planning reference M/2011/0126/F with the addition of 2 further chimney stacks to facilitate spraying. The agents supporting statement described this as being necessary for the most efficient system to be installed on site. This original spec for the extraction system incorporated 4 extraction fans, double inlet centrifugal type. The exhaust stack was to terminate at a height of 3m above the apex of the building with an efflux velocity in excess of the minimum requirement of 15m/sec.

(Elevations to retain current stack arrangement)



(stacks with support braces on side elevation)



(Comparison with stack heights and Dwelling at No 181)

At the time of writing the first report to Planning Committee the Environmental Health Department continued to receive odour complaints from nearby residential properties and officers had clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, it was requested that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3rd party receptors.

A refusal on the following basis was made previously to the Committee. The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

A revised Odour Impact assessment report was submitted on the 14th April 2021 and the views of EHD were sought. Third parties were also re-notified with 2 further letters of objection being received. I will summarise these later in this report.

EHD issued a consultation response on the 11 June 2021 stating:

'This updated odour impact assessment considers measured volume flow within the stacks at DMAC as opposed to the previously assumed 15 m/s in all six stacks at this site. Using a worst-case odour emission rate of 351 OU_E/m³ obtained from on-site measurements at this facility, AERMOD dispersion modelling shows that odour from the facility will be below 3 ou/s as a 98th percentile.

Environmental Health do not have access to AERMOD, nor any way of verifying inputs used within AERMOD. It should also be noted that Environmental Health continue to receive occasional complaints about odour from this facility and officers have detected odour at nearby receptors on occasions.

The paint spraying activity is currently regulated by Environmental Health under the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013 and the applicant should be aware that they are required to comply with the requirements of these Regulations.

Whilst paint spraying activities are covered by the above legislation, we would request that the following conditions be attached to any planning approval. (see further below) We therefore have no objection to this proposal on planning grounds.

It was my view in the initial report to Committee that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appeared well below the required standards which would assist with adequate dispersal. In light of the now acceptable Odour report received in April 2021 and the view of EHD I am more satisfied that the amenity concerns have been addressed.

In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I didn't share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I still do not feel that these are excessive in relation to wider public aspect. On that basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

The 2 additional letters of objection were received from the occupants of No 36 Washingbay Road and No 181 Annagher Road. The issues raised are as follows:

1. Health and loss of amenity
2. Fumes are noticeable as early as 6am on occasion.
3. EHD is well aware and complaints are well documented / officials have personally experienced.
4. DMAC should be using the extraction system they claimed when permission was originally granted.
5. Enforcement action should commence asap to cease this toxic odour.
6. Impacts on livestock
7. What guarantees can the Council provide that the chimneys will not affect our health and that of our livestock.

Given that EHD are now content that the revised odour assessment achieves adequate volume flow, and that their worst case scenario produces a dispersion model below 3 ou/s as a 98th

percentile it is in my view the case that subject to existing controls via the PPC regime and / or planning conditions listed that neighbouring amenity and health concerns should be able to be kept within recognised and accepted levels. In relation to amenity and nuisance at 6am the Council are in receipt of an application to extend the companies hours of operation, as yet no formal opinion has been formed on this application. DMAC have stated that they were not able to deliver on the initial means of dealing with extraction, whilst this is regrettable, the stance now taken by EHD shows that the current means of extraction can operate within acceptable limits.

Prior to the site visit on the 23 July 2021 a further objection was received from Mr Hughes at No 36 Washingbay Road raising the following points of concern:

1. The planned visit by members to DMAC is a pointless exercise.
2. The Council is well aware of the continual leaking of paint fumes from the site / there is nothing occasional about this as has been claimed by Council Officials / EHD have been repeatedly informed of the issues and have themselves smelled fumes during site visits.
3. Fumes cannot be physically seen on a site visit.
4. A smoke test should be carried out on the DMACs chimneys / this should cover its spray booth and the building in order to independently establish if there are any leaks or fumes, or if workers are opening factory or spray booth doors too soon after spraying. This should be carried out across several days during different wind conditions with documentary evidence including video taken to show the wind direction. There are various firms capable of carrying out such tests.
5. No approval should be given to the stacks until this test is conducted.
6. If the site visit does go ahead I would request that the relevant EHD official is present.

In considering these additional grounds of objection, I have asked EHD to comment on the matter of the need and or relevance of the smoke test. A response has been returned to the Consultation stating that 'EHD are of the opinion that the suggested smoke test would be of little benefit as they consider the majority of odour emissions are from the stacks serving the spray booths and not through leaks or poor working practices as discussed. Furthermore, the presence of smoke from the facility would not necessarily indicate an exceedance of the 3 ou/s odour limit as a 98th percentile'.

Whilst the site visit provided an opportunity for members to view the stack heights in relation and in particular to the dwelling occupied by Mr Dooey (No 181) shown in the image earlier in my report, these level comparisons will have been known to EHD in assessing the submitted Odour Impact Assessment. I am not aware of any specific evidence being provided in relation to livestock welfare caused as a direct result of fumes from the DMAC stacks.

An Enforcement Notice has recently been served given that the period for immunity was approaching. On the basis of impending enforcement appeal proceedings, members are asked to agree that the Council withdraws the recently served Enforcement Notice relating to the chimney stacks upon the decision to grant planning permission for this application.

Having visited the DMAC site and No 181, and in considering the position and lack of objection from EHD to the chimney stacks which after all are the subject of this particular application, my recommendation is that permission be granted with the below conditions.

Conditions:

1. Odour from each of the 6 stacks serving the building as annotated on Drawing Number 02/2 date stamped 29th January 2018 when measured during the bake and dump process shall not exceed 351 OU_E/m³ when measured in accordance with IS EN 13723 and analysed by a UKAS accredited test method.

Reason: To protect neighbouring property from excessive odour

2. Within 4 weeks of a written request by the Council following a reasonable odour complaint from the occupant of a residential dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of odour from the development and/or check compliance with the odour limit listed in condition 1. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the odour monitoring and authorised officers may attend the development at any time during this monitoring. The results of all odour modelling shall be provided in writing to the council within 4 weeks from the date of the assessment having been undertaken.

Reason: To protect neighbouring property from excessive odour

3. Where odour is found to exceed the limits outlined within condition 1, the Council shall be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring property from excessive odour

Signature(s): M.Bowman

Date: 24th Aug 2021



Deferred Consideration Report

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Application ID: LA09/2017/0319/F	Target Date:
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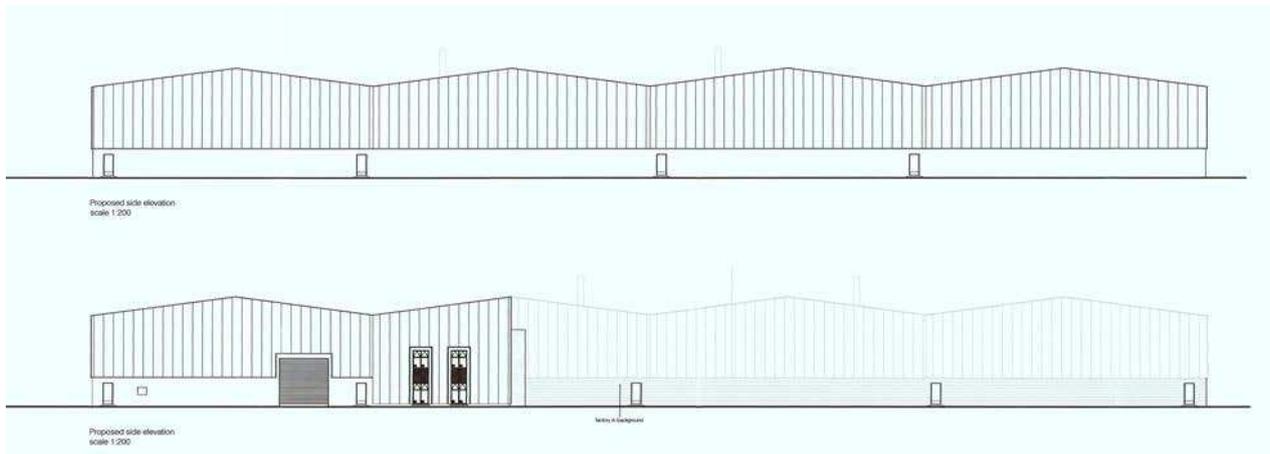
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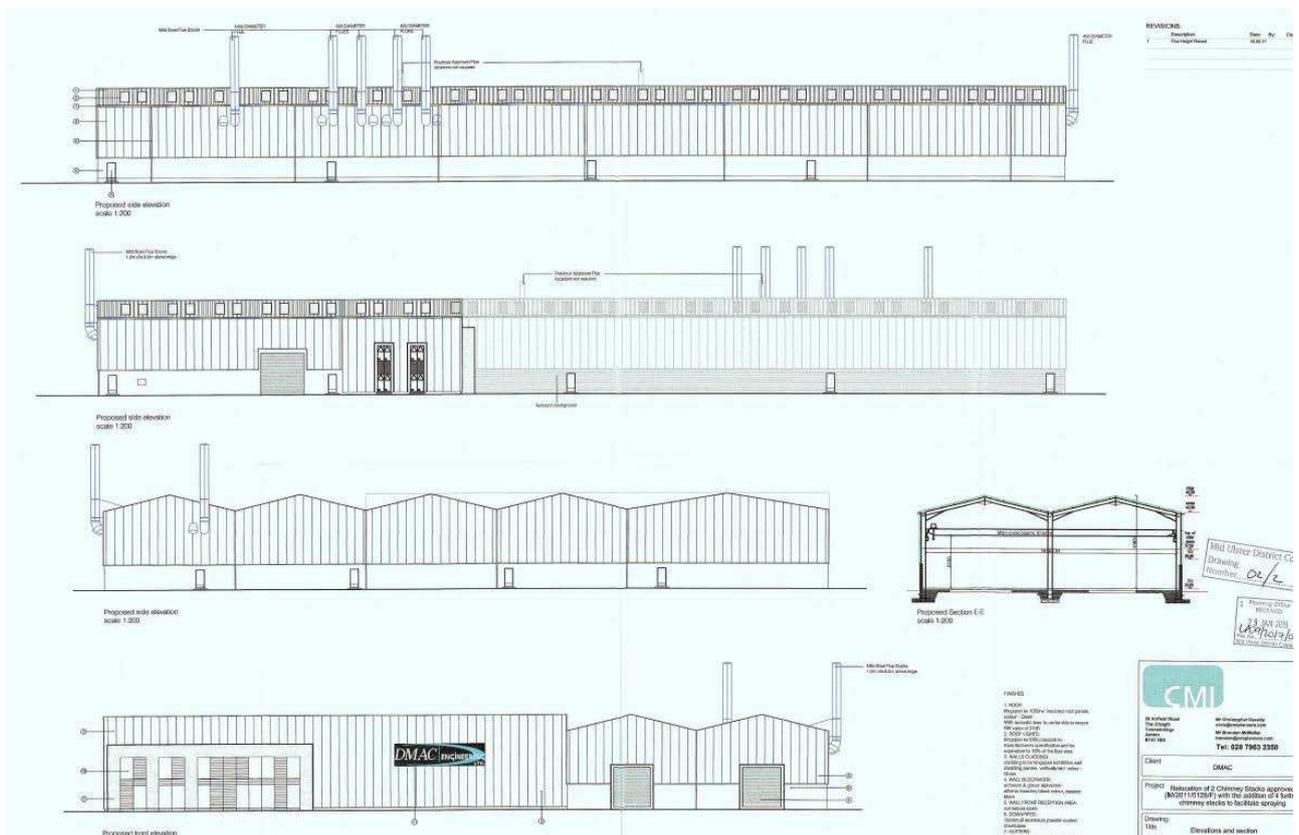
(approved elevations for DMAC showing 2 flues)

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(Elevations to retain current stack arrangement)



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Reason: To protect neighbouring property from excessive odour

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3. Where odour is found to exceed the limits outlined within condition 1, the Council shall be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 8 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect neighbouring property from excessive odour

Signature(s): M.Bowman

Date: 21 June 2021



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date: Feb 2021	Item Number:
Application ID: LA09/2017/0319/F	Target Date:
Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)	Location: 70m South of 177 Annagher Road Dungannon
Referral Route: Application recommended for refusal and objections received.	
Recommendation: Refusal.	
Applicant Name and Address: DMAC Engineering 204 Washing Bay Road Dungannon	Agent Name and Address: CMI Planners Ltd Unit 5 80/82 Rainey Street Magherafelt BT45 5AG
Executive Summary: Proposal fails to comply with policy in relation impacts on neighbouring amenity.	
Signature(s): M.Bowman	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

Representations:

Letters of Support	None Received
Letters of Objection	8
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues – failure to demonstrate that neighbouring amenity is protected from unacceptable levels of odour nuisance.

Characteristics of the Site and Area

Existing DMAC engineering site located on outskirts of Coalisland at Annagher Road. Rural area as defined by the Dungannon Area Plan with residential dwellings dispersed on all sides. Significant topographical differences with the DMAC facility being located well below Annagher Road but at a level where there are other private dwellings to the southern and SE boundaries of the site.

Description of Proposal

The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the retention of 4 further chimney stacks to facilitate spraying within existing approved building. All flues to discharge 6 metres above the existing ridge line. (Amended description) (Revised Odour Impact Assessment received)

(proposed elevations)

REVISIONS:

Rev.	Description	Date	By
1	Final Approval	20/11/17	DMAC

PROPOSED SECTION E-C
scale: 1:200

PROPOSED SIDE ELEVATION
scale: 1:200

PROPOSED FRONT ELEVATION
scale: 1:200

DMAC Engineering

TECHNICAL DRAWING TABLE

NO.	DESCRIPTION	DATE	BY
1	ISSUED FOR PERMIT	20/11/17	DMAC
2	ISSUED FOR PERMIT	20/11/17	DMAC
3	ISSUED FOR PERMIT	20/11/17	DMAC
4	ISSUED FOR PERMIT	20/11/17	DMAC
5	ISSUED FOR PERMIT	20/11/17	DMAC
6	ISSUED FOR PERMIT	20/11/17	DMAC
7	ISSUED FOR PERMIT	20/11/17	DMAC
8	ISSUED FOR PERMIT	20/11/17	DMAC
9	ISSUED FOR PERMIT	20/11/17	DMAC
10	ISSUED FOR PERMIT	20/11/17	DMAC

CMi
Construction Management
13, Mill Street, Dungannon, Co. Tyrone BT20 4JH
Tel: 028 7963 2350

Client: DMAC

Project: Relocation of 2 Chimney Stacks approx 1000m² with the addition of 4 chimney stacks to facilitate spraying

Drawing no.: Elevation and section

Scale: 1:200

Sheet no.: 1 of 1

Date: 20/11/17

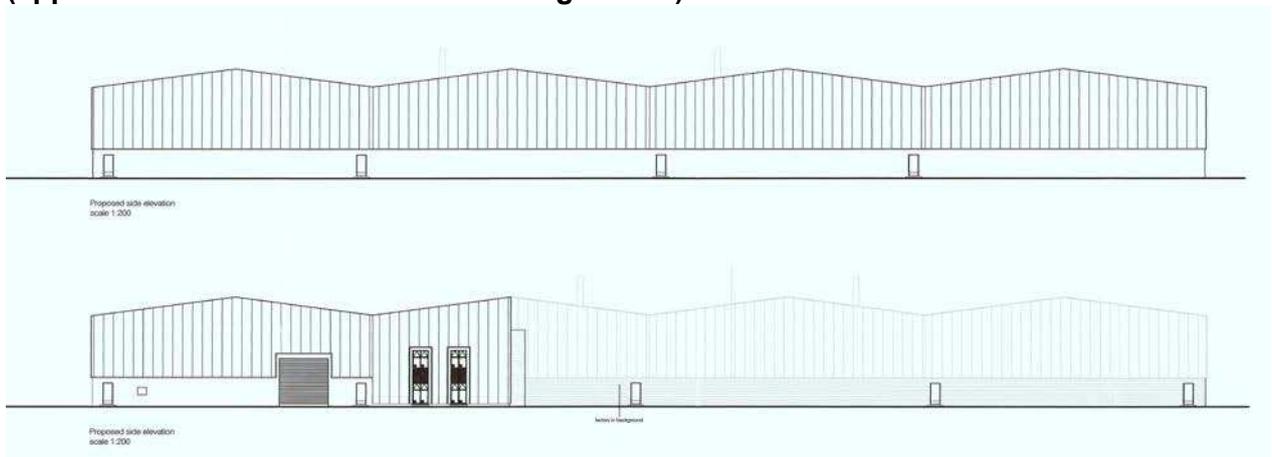
Revision: 1

Planning Assessment of Policy and Other Material Considerations

The original planning permission for DMAC on this site (M/2011/0126/F) was approved by Mid-Ulster District Council on the 15th April 2015. The approved elevations (below) show 2 small flues on the side elevation.

In the EIA summary which accompanied the application it was stated that, in relation to potential air pollution, the company had developed an air filtration and purification system which were to remove any pollutants from air output. As of 2011 the system was stated as being in the 'final stages of commissioning'. The decision notice does not contain any conditions relating to odour management from the development.

(approved elevations for DMAC showing 2 flues)



An application for a non material change was submitted in 2016 (LA09/2016/1761/NMC) proposing 4 external flues. The decision of the Council was not to accept these alterations as being non-material. The current planning application followed. There is also an open enforcement case on the issue.

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A consultation was issued to Environmental Heath (EHO) who returned a reply on the 3RD May 2017 seeking an odour assessment given a number of complaints which had already been received by the EHO department relating to odour and fumes. CMI planning indicated to the Council that this would be prepared by Irwin Carr and be submitted within 2 weeks.

A reminder was issued in Aug 2017 given the absence of the promised report. The report was received by the Council on the 14th Aug 2017 and issued to EHO for comments, as well as local objectors to the proposal. On the 18th Aug 2017 the case alerted CMI Planning that the flues were now extended and may not accord with the submitted application. CMI responded on the same day to state that the flues had indeed been extended to 3m above the ridge as opposed to 3m above the eaves of the building. CMI were further asked if this would have any bearing on

the recently submitted odour assessment report. In a reply on the 18th Aug 2017 CMI stated that the increased height would have no bearing on the results as 'it is the diameter of the pipe that gives the calculations. The increased height actually will reduce the area of turbulence'. Amended plans were uploaded to the portal on the 18th Aug 2017.

The EHO response to the above indicated that there may be anomalies between the inputs to the model and what is actually occurring on site. The response also indicated that odour complaints had been verified on site by members of EHO. In addition 2 further stacks had been identified on the building associated with an alleged additional spray booth.

In Jan 2018 CMI responded to amend the Odour assessment and alter the description of the proposal to refer to its present description, ie, proposing the retention of 4 additional stacks and the relocation of 2 originally approved with these discharging 6m above the buildings ridge line. A series of notification, further objection and re-consultation followed. I will go into detail on the nature of local objections later in this report. The EHO reply on 15/3/18 stated the odour report still indicates that the odour detected at the closest sensitive dwellings will be significantly below the 3ou/m³ target value set out in H4 Odour management. It also predicts that if the stacks were increased to 6m that this would lead to a decrease in odour levels from 0.93ou/m³ to 0.72. However, in continuing to receive complaints from spraying several officers from EHO are stated as having made visits and witnessed odour to be very strong on numerous occasions and that investigations have been carried out to eliminate any other source of odour (as claimed by CMI Planning), these investigations concluding that DMAC is the source of the odour. The EHO response concludes that as the odour model submitted predicts no odour impacts, and that given this is not the agreed on-site observation, that there are reservations as to the beneficial impact of only 3m in the stack heights. The applicant may therefore need to consider alternative means of odour abatement.

It is at this point the application has hit somewhat of a standstill. CMI planning it appears continues to question the EHO on-site observations and consequently the accuracy of their consultation replies. In early 2019, by which it is understood that the stack heights had been further extended to 6m, CMI was again asked to response to the outstanding position outlined by EHO. In April and May 2019 CMI wrote asking EHO to provide their site visits records for the purposes of cross-checking. On the 16 May 2019 CMI again indicated that they required a full explanation from EHO on their visit and observation dates.

A further EHO consultation (see below) issued on the 15th Oct 2019 is again challenged by CMI and refers to a later Odour report sent to them in Aug 2019 but which it is claimed has not been considered. In engaging with EHO it appears the Aug 2019 odour report is unknown to them and I do not see a record of it on file. What the agent is referring to is possibly a stack monitoring report submitted to EHO which the DMAC company are required to do to satisfy the Council under the PPC regime. Whilst these 2019 results show higher discharge velocities than the 2018 results, the Council have not been presented with an odour assessment with updated odour assessment with the figures requested (as per the 2018 report) which were considerably lower than 15 m/s.

Comments on Planning Application

15th October 2019

Proposal: The relocation of 2 chimney stacks approved under ref.M/2011/0126/F and the addition of 4 further chimney stacks To facilitate spraying within existing approved building

Location: 70m South of 177 Annagher Road, Dungannon

This application for relocation of 2 chimney stacks and the addition of an additional 2 stacks has been considered along with the submitted Irwin Carr Odour Impact Assessment dated 16th January 2018.

The Irwin Carr report uses AERMOD dispersion modelling to predict overall average impact of emissions from the existing facility using site specific inputs on odour emission rates, stack diameter, exit velocities etc. along with meteorological data and considers the impact at nearby residential properties over the previous 5 years. They concluded that the odour levels at all nearby receptors were significantly below the 3 ou/m³ whilst an increase of stack height by 3 metres (to 6 metres in total above ridge height) resulting in a 13.5 -23.5% reduction in odour levels at these receptors.

It is our understanding that the current stack heights are 6 metres above ridge height. Planners should satisfy themselves that this is the case.

The Environmental Health Department continue to receive odour complaints from nearby residential properties and officers have clearly observed these odours on a variety of occasions over the last few years.

A review of 2018 stack emissions testing undertaken by an independent company showed discharge velocities ranging from 9.4 – 1.2 m/s (3 of which returned discharge velocities <3 m/s) which are well below the 15 m/s discharge velocities used within Table 4 of the Irwin Carr report.

For this reason, we request that the odour assessment should be revisited using these measured inputs instead of theoretical values to establish if these produce figures more reflective of the situation witnessed at 3rd party receptors.

We would also request that new or additional mitigation measures be considered which will reduce the odour impact at nearby residential properties to further progress this application.

Policy Considerations.

The site is located in the countryside, on the edge of the settlement of Coalisland as defined by the current Dungannon Area Plan. The DMAC engineering business is now established here. My consideration of this proposal is therefore only concerned with the reposition and addition of the chimney stacks now on the building retrospectively. I don't see this proposal so much as an expansion of the premises in Policy PPS4 PED3 terms, but rather more a Policy PED9 test.

The SPPS in referring to Economic Development, Industry and Commerce, whilst recognising that economic development in the countryside, states:

6.87 The guiding principle for policies and proposals for economic development in the countryside is to facilitate proposals likely to benefit the rural economy and support rural communities, while protecting or enhancing rural character and the environment, consistent with strategic policy elsewhere in the SPPS.

6.91 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.

Policy PED9 of PPS4.

A proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet a number of criteria. Amongst these are 2 in particular which I feel require specific consideration not, namely:

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

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

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

The Justification and Amplification of this Policy recognises that in making provision for economic development, and in considering proposals, the Department will seek to minimise adverse effects on the amenities of adjacent properties, particularly dwellings, and on natural and built heritage resources. Particular care will be taken to safeguard local, national and international natural heritage designations.

It is my view that this proposal does not satisfy Criteria (b) and (f) of PED9 in that the present failure of the developer to demonstrate that this development will not lead to a loss of amenity has indicated that the DMAC facility is not capable of dealing satisfactorily with emissions. The chimney stacks discharge rates appear well below the required standards which would assist with adequate dispersal. In relation to integration into the landscape, given the level differences between the DMAC factory and the approaching roads, I don't not share some of the concerns raised by objectors in this case on the visual impact of the extended flues. Whilst extending well above the factory roof I do not feel that these are excessive in relation to wider public aspect. On this basis I would adopt the view that the chimney stacks do not offend other rural policy, namely Policy CTY14 of PPS21 for example.

Consideration local objections.

There have been 8 objections received from properties at No 36 Washingbay Road, 181 Annagher Road, 160 Annagher Road, issues raised include:

1. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
2. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
3. The stacks have introduced a further visual impact and deterioration of rural character
4. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.
5. NI HSE are currently investigating the impacts and it is requested that the views of statutory bodies is sought.
6. That noise nuisance has increased from the factory
7. The proposal, by transmitting air pollutants through the countryside including over arable lands / impacting on livestock / grazing, has been detrimentally impacting the air quality and residential amenity of nearby property
8. The previous permission for DMAC promised an air filtration system but to date this has failed to be delivered
9. The stacks have introduced a further visual impact and deterioration of rural character

10. The Council have a duty to protect / investigate nuisances including fumes emitted from premises under the Clean Neighbourhoods and Env Act (NI) 2011.

11. The overall enjoyment of property is being effected on occasion by fumes by not being able to use my garden / relatives being unable to visit.

12. That to rely on computer generated modelling is of limited value. The presence of the 6 chimneys provides ample opportunity to use real air quality monitoring. A PAC decision, 2017/A0043 supports this view in terms of the weighting to be afforded to air dispersion modelling as opposed to real air samples.

I recognise and concur with many of the issues raised by residents. In reaching my recommendation I attach determining weight to these concerns when considered in conjunction with the on-site observations of EHO colleagues. The matter of noise concerns I feel relates to wider claimed issues associated with DMAC operations and not this specific proposal. I note that the HSENI in May 2017 advised the Council of an investigation into alleged paint fumes from the plant following a complaint from a member of the public and asked that the Council planning enforcement team further investigate and consider.

I fully appreciate that DMAC need a means of discharging emissions in the interests of the efficient and safe undertaking of the business, as stated within the agents supporting statement, this cannot however be at what appears to be the expense of the quality of residential amenity being experienced in the locality of the factory and as observed by EHO.

I refer back to the earlier promised means by which the company stated they would deal with emissions contained in the original approval for DMAC which it seems has not been incorporated into the factory. Given that the Council have not been presented with any other obvious alternative design solution or other means of demonstrating satisfactory compliance, and in considering the clear objections from EHO and local residents, my recommendation is to refuse permission for the reason set out below.

Neighbour Notification Checked

Yes

Summary of Recommendation: Refusal.

Reasons for Refusal: The proposal is contrary to the SPPS and Policy PPS4 PED9 in that it has not been satisfactorily demonstrated that the development will not lead to an unacceptable loss of amenity to nearby residents by way of odour and fumes.

Signature(s) M.Bowman

Date: 19th Jan 2021

ANNEX	
Date Valid	3rd March 2017
Date First Advertised	16th March 2017
Date Last Advertised	15th February 2018
Details of Neighbour Notification (all addresses)	
<p>E Campbell 160 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 4NF The Owner/Occupier, 177 Annagher Road Annagher Coalisland Martin and Kathleen Dooley 181 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin and Kathleen Dooley 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA Martin Dooley 181, Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA J Campbell 183 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA The Owner/Occupier, 185 Annagher Road Dernagh Coalisland Orlagh Campbell 197 Annagher Road, Coalisland, Tyrone, Northern Ireland, BT71 5DA James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU James Hughes 36 Washingbay Road, Coalisland, Tyrone, Northern Ireland, BT71 4PU</p>	
Date of Last Neighbour Notification	2nd February 2018
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: LA09/2016/1761/NMC Proposal: Relocation of previously approved flue stacks Address: 70m South of 177 Annagher Road, Coalisland, Decision: CR Decision Date:</p> <p>Ref ID: LA09/2015/1278/NMC</p>	

Proposal: Minor change to planning approval M/2011/0126/F: change of exterior cladding colour of the unit to green and change of roof pitch to accommodate overhead cranes

Address: 70m South of 177 Annagher Road, Coalisland,

Decision: CG

Decision Date:

Ref ID: LA09/2017/0319/F

Proposal: The relocation of 2 chimney stacks approved under ref. M/2011/0126/F and the addition of 2 further chimney stacks to facilitate spraying within existing approved building

Address: 70m South of 177 Annagher Road, Dungannon,

Decision:

Decision Date:

Ref ID: M/2014/0027/LDE

Proposal: The continued use of the land for the storage of industrial machinery, steel portacabins and general industrial equipment

Address: Lands south of 177 Annagher Road, Coalisland,

Decision: PR

Decision Date:

Ref ID: M/2010/0631/Q

Proposal: Zoning of Industrial Lands

Address: Lands South of 177 Annagher Road, Coalisland

Decision:

Decision Date:

Ref ID: M/2011/0126/F

Proposal: Small rural industrial enterprise on land situated adjacent to existing settlement limit of Coalisland.

Address: 70m South of 177, Annagher Road, Coalisland,

Decision: PG

Decision Date: 29.04.2015

Ref ID: M/1986/0582

Proposal: EXTRACTION OF SAND

Address: ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1987/0421

Proposal: SAND EXTRACTION

Address: ANNAGHER ROAD, ANNAGHER, COALISLAND

Decision:

Decision Date:

Ref ID: M/1989/0159

Proposal: Extraction of sand

Address: BEHIND 177 ANNAGHER ROAD ANNAGHER COALISLAND

Decision:

Decision Date:

Ref ID: M/2013/0464/LDE

Proposal: Works which were subject to conditions have not been carried out

Address: Lands south of 177 annagher Road, Coalisland,

Decision: PG

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. 02

Type: Proposed Elevations

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: Karen Doyle	
Application ID: LA09/2017/1366/F	Target Date:
Proposal: Residential Development for 52 units	Location: 20 Dungannon Road Cookstown
Applicant Name and Address: McKernan Construction Ltd Keenaghan Road Cookstown	Agent name and Address: Farran Architects 447 Ballyquin Road Dungiven BT47 4LX
Summary of Issues: <p>Further letters of objection and non-committal letters have been received since the application was last presented before the committee. The issues raised are as follows:</p> <ul style="list-style-type: none">- A procedurally incorrect approach to the Proposal of Application Notice.- Failure to have regard to the undecided planning appeal on a CLUD, which is a material consideration.- Failure to inform DfI Roads on the status of the planning history of the site.- Issue of Road Safety Audit.- Failure to address proliferation of accesses onto Dungannon Road.- Issues of natural heritage concern.- An approval will be prejudicial to an approved development for apartments on the opposite side of the road for I/2006/0760/F.- Questions if the previous approval on site has lawfully commenced.- Are there any concerns over the number of accesses on the Dungannon Road?- Questions the naming of the unlawful housing development.- Biodiversity concerns.- An objector states the P2C form was not served on the neighbouring landowners.- Capacity issues in the WWTW in Cookstown and the outdated response from NIW. <p>These will be addressed later in the report.</p>	

Summary of Consultee Responses:**Dfl Roads:**

The layout and associated road improvement Works are subject to a Private Streets Determination. Conditions and informatives have been suggested for the inclusion in any planning approval

Dfl Roads recommends prior to commencement of the development the stage 3 safety audit report is submitted to the Department for assessment/review.

NIEA:

NED find the proposal acceptable subject to a number of conditions seeking the retention of trees, hedgerows, submission of a lighting plan and no direct discharge of untreated surface water. They state in their consultation response in July 2021 that due to the particular circumstances of the case, an indicative plan for the site would be sufficient provided that the light spill on all boundaries were restricted to a 1.0 lux maximum.

Characteristics of the Site and Area:

The application site is within the development limits of Cookstown, as defined in the Cookstown Area Plan 2010. The site consists largely of agricultural fields with some old sheds still standing on the site. There is a mix of land uses around the site. To the northeast is Cookstown WWTW; to the north is Mid Ulster Cars. To the south is a petrol filling station, a builder's yard and agricultural fields. To the east lies the Ballinderry River and to the west is the Dungannon Road, with a mix of residential dwellings and businesses accessing off this road. The site falls away from the Dungannon Road.

Description of Proposal

This application is for a proposed residential development initially comprising of 84 units to supersede development approved under ref I/2006/1186/F. However, during the course of the application this has been reduced to and described only as a "Residential development for 52 units" with a significant reduction in the red line boundary of the site.

Deferred Consideration:

This application was deferred by the Planning Committee in July 2020 on account of a late objection received prior to the Committee meeting. It was agreed the issues in the letter should be addressed by the case officer before a decision could be reached on the application by Members.

A number of issues were raised in the letter by Inaultus which I shall address in turn.

1. A procedurally incorrect approach to the Proposal of Application Notice:

The Pre Application Community Consultation report included a copy of the advert placed in the Mid Ulster Mail and having considered the advert and both the

Planning Act (NI) 2011 (hereinafter “the Act”) and The Planning (Development Management) Regulations (NI) 2015 (hereinafter “the Regs”) I will now address the procedural issues. The Act places a statutory duty on applicants for planning permission to consult the community in advance of submitting a Major planning application.

The Act also requires the applicant to submit a “Proposal of Application Notice” (hereinafter “PAN”) at least 12 weeks in advance of submitting a planning application. A PAN (ref LA09/2017/0092/PAN) was submitted to MUDC on 23.01.2017. The PAN was deemed to be acceptable and confirmation was sent to the agent.

Subsequently the applicant submitted a full application under LA09/2017/1366/F on 3.10.2017 which is more than the requisite 12 weeks and a Pre Application Community consultation report was submitted with the application on 3.10.2017. “The Regs” state the prospective applicant must hold at least one public event in the locality of the proposed development where members of the public may make comments to the prospective applicant regarding the proposed development. The applicant must also publish a notice in a local newspaper circulating in the locality in which the proposed development is situated. Regulation 5 (2) (b) of “the Regs” state the notice must contain:

- i. A description of, and the location of, the proposed development;
- ii. Details as to where further information may be obtained concerning the proposed development;
- iii. The date, time and place of the public event;
- iv. A statement explaining how, and by when, persons wishing to make comments to the prospective applicant relating to the proposal may do so, and
- v. A statement that comments made to the prospective applicant are not representations to the Council or as the case may be the Department and if the prospective applicant submits an application there will be an opportunity to make representations on that application to the Council or as the case may be the Department at a later stage.

The advert placed in the Mid Ulster Mail did not address points (iv) and (v) above. Regulation 6 of “the Regs” prescribe a time period of 21 days for requesting additional information where s.27 of “the Act” may not have been complied with but we did not ask the applicant to address the anomaly in the advert.

Following the application being presented before the Committee in July 2020 legal advice was sought and the applicant was subsequently asked to submit a new PAN and carry out the necessary public consultation in accordance with the published Covid-19 Emergency Planning Guidance: Pre Application Community Consultation - Temporary Removal of Public Event Requirement. The applicant submitted a new PAN to MUDC, carried out community consultation and in my opinion has satisfied the Planning (Development Management) Regulations (NI) 2015.

2. Failure to have regard to the undecided planning appeal on a CLUD which is a material consideration:

I have addressed this in my previous report to the Committee. We are not giving any weight to the previous planning approval, which is on a larger site than that on which the current application sits. The PAC have issued a decision confirming the right turn lanes, indicated on an approved drawing, have not been marked out exactly in accordance with it. The Commissioner found the changes are de minimis and do not significantly affect the operation of the right turn lanes. The Commissioner found there was convincing documentary evidence that the road layout and markings were substantially completed within 5 years of the date of planning approval. The PAC have decided the requirements of condition 12 have been discharged and a CLEUD was attached to the decision.

3. Failure to properly inform DfI Roads on the status of the planning history of the site:

Representatives from DfI Roads who have been involved in the current planning application were present at the Planning Appeal in February this year and are fully appreciative of the planning history of the site.

4. Issue of Road Safety Audit

The objector has raised a concern that DfI Roads have requested a Road Safety Audit, which has not been sought. In the last response from DfI Roads, they have included a suggested condition, which requires the completion of a Stage 3 Safety Audit upon occupation of 26 units, and they require a Stage 4 Safety Audit included in the suggested condition.

5. Failure to address proliferation of accesses onto Dungannon Road.

At the CLUD appeal in February 2020 there was no dispute by any party that the right turn lanes close to the entrance to the subject housing development site have not been laid out exactly in accordance with the approved drawings. There are a number of access points along this part of the Dungannon Road and none have been provided in accordance with drawing 02K of I/2006/1186/F. However, the Planning Appeals commission has accepted this junction arrangement and issued a certificate of lawful development, which related to a larger development than what is now proposed.

The proposed access arrangements on Dungannon Road were not to the desired DRMB standard and DfI Roads agreed a Departure of Standards.

6. Issues of natural heritage concern.

We received a letter of objection from Dr James O'Neill in December, which raised issues of concern with surveys being required for bat, otter, lizard, badger and a Stage 2 HRA. Following consultation with Natural Environment Division of DAERA, they responded requesting additional information from the applicant.

Over the course of 6 months, we received additional information, which satisfied some of the concerns held by NED but not all of them.

Tetra Tech submitted a letter of objection in April 2021, which we forwarded to NIEA. Following several submissions from the applicant NED now find the proposal acceptable subject to a number of conditions seeking the retention of trees, hedgerows, submission of a lighting plan and no direct discharge of untreated surface water. They state in their consultation response in July 2021 that due to the particular circumstances of the case, an indicative plan for the site would be sufficient provided that the light spill on all boundaries were restricted to a 1.0 lux maximum.

The applicant and the neighbouring landowner are still in a dispute as to the ownership of some land within the red line of the site. The applicant has submitted a further P2 certificate and has served the requisite notice on neighbouring landowners. Any other matter of land ownership is a civil matter that is outside the remit of this planning application.

Additional letters of objection have been received to the application which raise the following issues:

- An approval will be prejudicial to an approved development for apartments on the opposite side of the road for I/2006/0760/F;
- Questions if the previous approval on site has lawfully commenced;
- Are there any concerns over the number of accesses on the Dungannon Road;
- Questions the naming of the housing development that is perhaps unlawful;
- NED issues
- The applicant did not serve a P2C form on the neighbouring landowners.

In response to the issues raised, Roads find the proposed access arrangements acceptable. The naming of a new street is outside the remit of the Planning application. Any issues with natural heritage and biodiversity have been address to the satisfaction of DfI Roads. The applicant says the neighbours were served with a P2C form and we take this at face value.

Following the PAC decision in which they decided the requirements of Condition 12 of I/2006/1186/F have been discharged the applicant laid foundations of two dwellings, which are currently under investigation, by the Enforcement team.

We received a further non-committal letter in August 2021 following neighbour notification from Inaultus. The letter refers to capacity issues in the WWTW in Cookstown and the outdated response from NIW on the issue. The letter assumes a position the response received from NI Water on 30 March 2020 is now outdated and a new consultation should be sent to NI Water to ascertain the current capacity for the proposed development.

I have contacted NI Water and following an exchange of emails they confirm the response is valid for 18 months though there may be room for extending this period depending on the circumstances. Therefore, there is currently capacity for the proposed development at the receiving WWTW.

Having considered all the additional information submitted and the objections raised since the deferral of the application in July 2020 there is no change in opinion and an approval is recommended 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 (NI) 2011

2. The structure of the proposed dwellings should be as specified on P.24 of the acoustic report as a minimum standard.

Reason: In the interests of residential amenity.

3. Prior to the occupation of any of the dwellings hereby permitted a suitable 1.8m acoustic barrier should be erected to the rear of dwellings numbers 40 to 52 as highlighted in drawing 02/6. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

4. Prior to the occupation of any of the dwellings hereby permitted a second barrier of 2m height should be fitted to the rear of houses 1 to 4 to mitigate the noise from the filling station at these locations. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

5. Dwellings 1 to 4 inclusive should be fitted with a whole house ventilation system to be specified by the acoustic consultant and agreed with planning to enable future residents to keep their windows closed in hot weather while maintaining requisite airflow and ventilation.

Reason: In the interests of residential amenity.

6. No development, with the exception of those portions of roads as shown on drawing number A1 02 Rev 6 "Proposed Layout", shall encroach upon lands

identified by NI Water and incorporated within NI Water's Cookstown Wastewater Treatment Works, Odour Assessment Based on On-site Monitoring, Feb 2018.

Reason: In the interests of residential amenity.

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

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

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

8. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 7.

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

9. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 7. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

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

10. All proposed works either temporary or permanent including fencing, drainage, private utilities or third party provisions should be kept within the site boundary as shown on drawing 17/6 date stamped 06 December 2019 ensuring all lands

required for the Cookstown By-Pass are not prejudiced by the proposed development.

Reason: To ensure protection of land required for the Cookstown By Pass as indicated on the area plan.

11. The vehicular access, including visibility splays of 2.4m x 90m at the junction of the proposed access road with the Dungannon Road, and any forward sight distance, shall be provided in accordance with Drawing No.17/6 bearing the date stamp 06 December 2019 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

12. A stage 3 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed to the approval of DFi Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out prior to the erection of the dwellings hereby permitted.

Reason: In the interest of road safety.

13. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 17/6 bearing the date stamp 6 December 2019.

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.

14. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 17/6 bearing the date stamp 6 December 2019 The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

15. The access gradient(s) to the dwelling(s) hereby permitted 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.

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

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

17. The vehicular access, including visibility splays of 2.4m x 33m at the access located at sites 30 and 31, and any forward sight distance, shall be provided in accordance with Drawing No. 17/6 bearing the date stamp 6 December 2019, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

19. No development activity shall commence until a Lighting Plan has been submitted to and approved in writing by the Planning Authority. The approved Plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The Plan shall include the following:

- a) Specifications of lighting to be used across the site.
- b) All measures to mitigate for the impacts of artificial lighting on bats and other wildlife, including low lighting levels to be used across the site.
- c) A map showing predicted light spillage across the site (isolux drawing).
- d) Boundary vegetation to be maintained free of illumination greater than 1.0 lux.

Reason: To minimise impacts on protected species, including bats and otters, and to preserve the biodiversity value of the adjacent habitat.

20. All existing trees and hedgerows, shall be retained and protected in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*. No retained tree or hedgerow shall be cut down, uprooted or destroyed, or have its roots damaged within the crown spread nor shall arboricultural work or tree surgery take place on any retained tree to be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Planning Authority. All works shall be carried out in accordance with British Standard 5837:2012 *Trees in relation to design, demolition and construction – Recommendations*.

Reason: To ensure the continuity of the biodiversity value afforded by existing trees and hedgerows.

21. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a detailed check for active bird's nests immediately before clearance and provided written confirmation that no nests are present/birds will be harmed and/or there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

22. There shall be no direct discharge of untreated surface water run-off during the construction and operational phases to the southern and/or eastern boundaries of the site.

Reason: To protect the Ballinderry river environment and downstream natural heritage interests including Lough Neagh Special Protection Area (SPA), Area of Special Scientific Interest (ASSI) and RAMSAR site.

Signature(s):

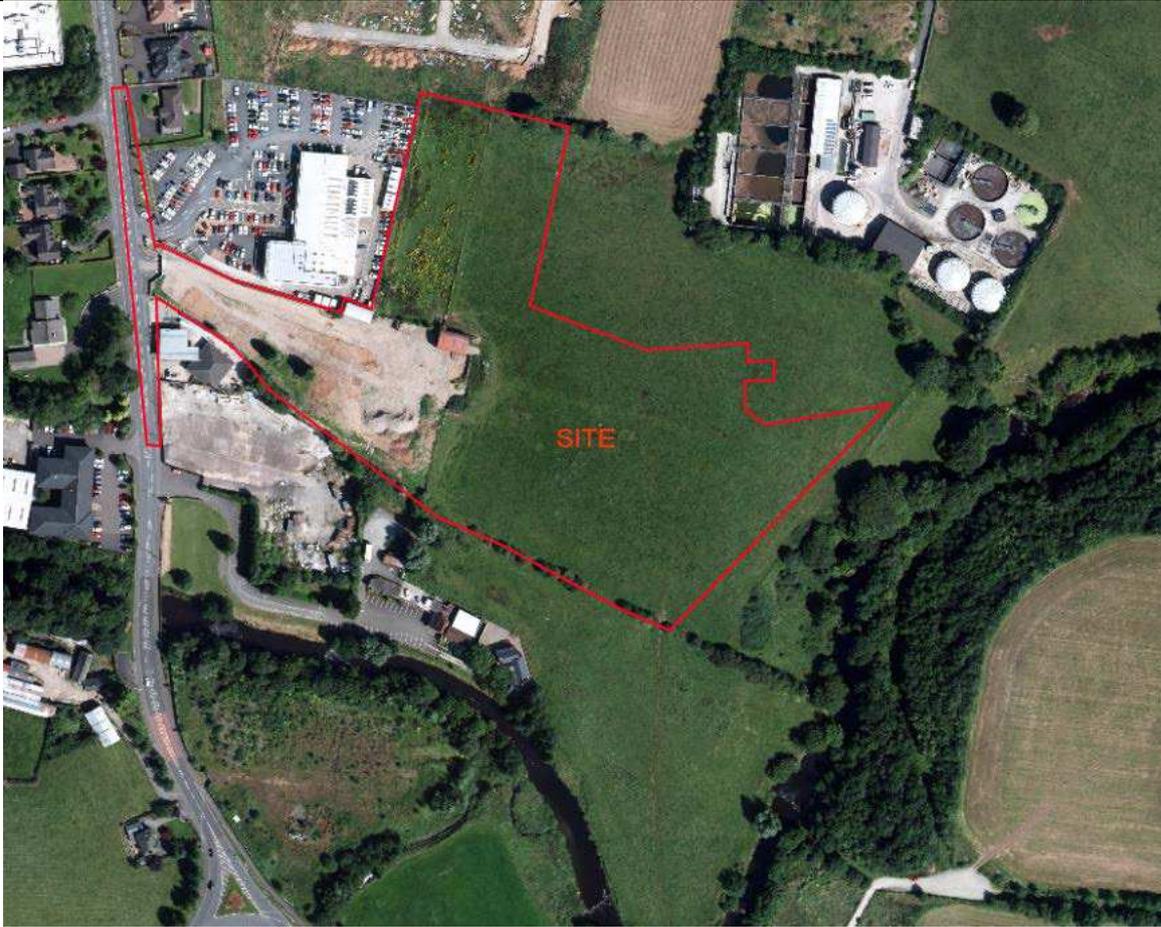
Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/1366/F	Target Date:
Proposal: Residential development for 52 units	Location: 20 Dungannon Road, Cookstown
Referral Route: This is a Major planning application with objections.	
Recommendation: Approve	
Applicant Name and Address: McKernan Construction Ltd, Keenaghan Road, Cookstown	Agent Name and Address: Farran Architects, 447 Ballyquin Road, Dungiven, BT47 4LX
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Non Statutory	Shared Environmental Services	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	Rivers Agency	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Representations:		
Letters of Support	None Received	
Letters of Objection	8	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues		
<p>There have been a number of objection letters received to this application which have raised the following issues:</p> <ul style="list-style-type: none"> • Potential for noise impact from the car sales and repairs at Mid Ulster Cars and the applicant has not submitted a noise impact assessment; • There is a lack of reports for consideration of the application; • Possible land contamination on the application site; • The proposal of 84 dwellings will not result in a quality residential environment; • The visibility splays are blocked by the totem pole; • The internal road layout for the 84 units is not acceptable; • There are issues and concerns with the TA; • There is a potential odour nuisance for the 84 dwellings; • The applicant does not own all the land within the red line and the P2 certificate is wrong; • 3rd party land owners will not permit any rights or easements over their lands to facilitate the visibility splays or to facilitate any other aspect of the planning application; • The access off the Dungannon Road is not suitable for a development of the proposed size and nature. An alternative access is available to the applicant off the Castle Road; • The applicant has not submitted a biodiversity study and the application sits next to the Ballinderry River; • The proposed site is within a WWTW consultation zone and will give rise to issues of odour nuisance; • There is a potential impact on the existing petrol filling station from future noise complaints from the owners of the new dwellings; • The applicant claims to have made a lawful start on I/2006/1186/F, however the access has not been constructed in accordance with planning conditions and therefore there is no “fallback” position; 		

- The access as constructed interferes with an approved access for a residential development to the south west of the application site which was approved under planning reference I/2006/0760/F for Mr J Anderson;
- There is a potential impact on natural heritage interests with a lack of necessary information;
- There are concerns with the completed biodiversity checklist.

Characteristics of the Site and Area

The application site is within the development limits of Cookstown, as defined in the Cookstown Area Plan 2010. The site consists largely of agricultural fields with some old sheds still standing on the site. There is a mix of land uses around the site. To the northeast is Cookstown WWTW; to the north is Mid Ulster Cars. To the south is a petrol filling station, a builder's yard and agricultural fields. To the east lies the Ballinderry River and to the west is the Dungannon Road, with a mix of residential dwellings and businesses accessing off this road. The site falls away from the Dungannon Road.

Description of Proposal

This application is for a proposed residential development initially comprising of 84 units to supersede development approved under ref I/2006/1186/F. However, during the course of the application this has been reduced to 52 units and a significant reduction in the red line boundary of the site.

Planning Assessment of Policy and Other Material Considerations

Regional Development Strategy
 Cookstown Area Plan 2010
 Strategic Planning Policy Statement
 Mid Ulster District Council Local Development Plan 2030 Draft Strategy
 Planning Policy Statement 2 - Natural Heritage
 Planning Policy Statement 3 - Access, Movement and Parking
 Planning Policy Statement 6 - Archaeology and the Built Environment
 Planning Policy Statement 7 - Quality Residential Environments
 Planning Policy Statement 15 - Planning and Flood Risk
 Creating Places.

The applicant initially described the proposal as a residential development intended to supersede the approval under I/2006/1186/F for the demolition of existing dwelling and sheds and erection of a) 82 apartments b) 20 semi-detached dwellings and c) 47 terrace dwellings. We needed to consider the issue of whether this does indeed supersede the previous application needs as it implies that the previous development can still be erected on the basis that development has commenced.

The applicant responded by changing the description of the application to remove reference to superseding the previous permission and replacing it with "Proposed residential development of 52 units". As there is a dispute whether the previous permission could be implemented I would advise the Committee to consider the proposal

afresh taking into account the previous history and other material considerations but not to assume there is a fallback position with regards to the previous permission.

Planning permission was granted for the “Demolition of existing dwelling and sheds and erection of a) 82 apartments b) 20 semi detached dwellings _ c) 47 terrace dwellings” on 18 May 2012. However this cannot proceed because the applicant has not been able to provide the visibility splays as required under that permission and there are difficulties in the location and close proximity to the WWTW.

The Committee should note a Certificate of Lawful Development was submitted by the applicant to say that works required to comply with conditions 8, 9, 10 and 11 of LA09/2018/0305/LDE, which essentially comprised of engineering operations to provide the visibility splays and road access into the approved development. A subsequent application for a Certificate of Lawful Development was submitted by a third party under LA09/2019/0707/LDE on 23 May 2019 for the discharge of condition 12 of I/2006/1186/F. This prohibits this development from commencing until the works necessary for the improvement of a public road, including the provision of the right turning lane are in place. This is before the Planning Appeals Commission but the Council took the view at the hearing it could not be discharged as it could not be met with regards to the layout of the right turn lane. We are awaiting a decision from the PAC, however, as this is a new application the decision would have little bearing on the current application.

In relation to the issues raised by objectors these are dealt with in the consideration of the policy requirements.

Quality Residential Environment:

All proposals for residential development will be expected to conform to all of the following criteria listed in PPS 7, Policy QD 1:

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

The proposed site sits in an area comprised of a mixture of commercial and residential uses as well as agricultural. This is not zoned land in the area plan and is white land. The proposed development is for 52no. two and three storey dwelling houses, including detached, semi-detached and terraced dwellings with an area of open space centrally located. The houses are to be finished in either red brick or with a natural stone finish. The development proposed is a much lower density than that previously approved under I/2006/1186/F, which encompassed the red line of this current planning application. Mid Ulster Cars abuts a northern and western boundary of the site. The drawings show a 1.8m high acoustic fence along this boundary as well as additional tree planting. The landscaped green area is centrally located with at least 17 houses fronting onto the area so there will be good surveillance over the area of open space. There is also a proposed kick about

area in the northern part of the site, which is directly overlooked by 6 dwellings.

The proposal satisfies PPS 15. The Strategic Flood Map (NI) indicates that the site does not lie within the 1 in 100 year fluvial flood plain. Consequently, DfI Rivers have confirmed they cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings I re-consulted Rivers Agency and they have responded stating their response of 25 February 2019 remains the same.

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

PPS 6 recognises archaeological remains as a limited, finite and non-renewable resource. Appropriate management is therefore essential to ensure that they survive in good condition. In particular, care must be taken to ensure that they survive in good condition and care must be taken to ensure that archaeological remains are not needlessly or thoughtlessly damaged or destroyed.

The application site is located on the edge of Cookstown, on land next to the Ballinderry River. It is also located in the historic demesne of Killymoon. The Ballinderry River is one of the main rivers that run towards Lough Neagh and there are a large number of archaeological sites and historic monuments recorded along the river particularly close to Cookstown and this application site. These include a Neolithic court tomb (TYP 38:32) and prehistoric standing stone (TYR 38:18) located to the north-east of the application site.

A Bronze Age occupation site was uncovered within the townland of Killymoon Demesne (TYR 29:66) in advance of development associated with the Killymoon golf course. This included the remarkable find of gold dress fastenings that are now on display in the Ulster museum. These sites suggest that the Ballinderry River was important to prehistoric people and further occupation evidence could be uncovered as development occurs close to the river. As such, archaeological mitigation is required in advance of site works at this location.

Should approval be granted for the proposed development HED: Historic Monuments request the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in site, as per Policy BH 4 of PPS 6. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings, I re-consulted HED whose position remains the same.

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;

As I previously referred to the drawings show an area of centrally located public open space and a kick about area in the northern part of the proposed development. The site area now measures 3.5 hectares of which 10% open space measures at a requirement of 3,500 square metres. When the areas of the centrally located area of open space (excluding the pond) and the kick about area are added together they measure c.9% of the total revised site area. Creating places requires 10% open space areas of the overall site area. The average garden size is well in excess of the required 70 square metres with no garden less than 70 square metres. In this context, I am content to accept public open space provision that is less than that recommended in Creating Places. The proposed site plan shows new landscape boundary planting along the majority of the boundaries to the site.

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

It is not necessary for a development of this size to make provision for local neighbourhood facilities. In the immediate vicinity of the application site is a large Asda supermarket, fast food restaurants and other local shops.

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 development provides for a movement pattern that supports walking and cycling. There are no known public rights of way across the proposed application site. There are various pedestrian crossing points and traffic calming measures located throughout the site. There are two bus stops within a very short walking distance to the north of the site on the Dungannon Road.

f) Adequate and appropriate provision is made for parking;

DfI Roads have assessed the proposed layout including parking provision and are content with the proposal subject to a number of conditions. This also addresses the requirements of PPS 3.

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

The proposed dwellings are designed at either 2 or 2.5 storey in height and finished in a mix of either red brick or local sandstone. There is a mix of land uses in the area comprising both commercial and residential. There is also a mix of house types, styles and finishes. It is my opinion that the design of the proposed dwellings is not out of character with the local area.

- 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;**

I have no concerns with regards to overlooking, loss of light or overshadowing. There are some commercial uses abutting the proposed residential dwellings and the proposal has reduced in size to take account of the existing WWTW. The applicant submitted a noise report and consultation was carried out with EHD. Following an extensive exchange of reports and additional information, the agent was advised that concerns remained with the proximity of the WWTW and the possible undesirable environment for the future residents. Subsequently the applicant reduced the size of the proposed development.

NI Water has considered the revised housing layout. NIW previously held concerns regarding dis-amenity that might be experienced as a result of development in proximity to Cookstown WWTW and these are now removed following the submission of an amended layout and reduced site area. The revised housing layout complies with the limit of development encroachment upon the WWTW. This is confirmed through the accepted super-positioning of the agreed odour risk area upon the relevant development layout proposal. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings, I re-consulted NIW whose advice remains unchanged.

- i) The development is designed to deter crime and promote personal safety;**

The proposed development provides a high level of surveillance for the areas of open space. I have no concerns with regards to crime and personal safety.

Access

In looking at the access into the site the Committee's attention is drawn to the fact that the access is marginally different to that approved historically under I/2006/1186/F. The primary reason for this is to overcome the issue of visibility splays in that this current proposal requires a smaller visibility splay of 2.4m x 90m as advised by DfI Roads. This in effect means that the totem pole placed by the neighbouring petrol filling station no longer interferes with the now required visibility splay.

In relation to the other issues of access, DfI Roads have advised it is acceptable. Mid Ulster Cars sent in a report detailing how access to the site in a report entitled "Review of Developer Traffic and Transport Submission" will be made much more difficult for customers and delivery of vehicles. However, DfI Roads have advised the access, as shown, is acceptable subject to a number of conditions. A Private Street Determination was submitted by the applicant and DfI Roads have confirmed that under The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992 the road will be adopted subject to the conditions listed below.

Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings I re-consulted DfI Roads. Their position largely remained unchanged from before. Further consideration was given to the need for Safety Audits both the stage of audit required and the timing of its submission. Included in the conditions listed below is the need for a Stage 3 Road Safety Audit upon the occupation of 26 units and a Stage 4 Audit is also listed under the conditions.

Natural Heritage

PPS 2 acknowledges that the public interest requires that all development is carried out in a way that would not cause demonstrable harm to interests of acknowledged importance, such as natural heritage.

Policy NH 1 of PPS 2 states that planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site or a listed or proposed Ramsar. The application site is in close proximity to Upper Ballinderry River Area of Special Scientific Interest (ASSI)/Special Area of Conservation (SAC) which is hydrologically connected to Lough Neagh Special Protection Area (SPA)/RAMSAR/ ASSI and Lough Beg SPA/RAMSAR (hereafter referred to as the designated sites) which are of international and national importance and are protected by Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended) and The Environment (Northern Ireland) Order 2002. Natural Environment Division (NED) has considered the impacts of the proposal on designated sites and other natural heritage interests and, based on the information provided, has no concerns subject to conditions.

Policy NH 5 states that planning permission will only be granted for a development proposal which is not likely to result in the unacceptable adverse impact on, or damage to:

- Priority habitats;
- Priority species;
- Active peatland;
- Ancient and long-established woodland;
- Features of earth science conservation importance;
- Features of the landscape which are of major importance for wild flora and fauna;
- Rare or threatened native species;
- Wetlands (includes river corridors); or
- Other natural heritage features worthy of protection.

Given the close proximity to the Ballinderry River and the presence of extensive riparian habitat, the site provides optimal habitat for bats to forage and commute. NED recommends that the applicant utilise bat sensitive lighting across the site to minimise the impact of the proposal on bats.

From the information available to NED, they are content that the site is unlikely to contain any habitats that are considered a Northern Irish Priority Habitat. The adjacent river and the associated riparian habitat NED would advise that the applicant utilise native species of trees and shrubs as part of the proposed planting.

Shared Environmental Services concluded that having considered the nature, scale, timing, duration and location of the project further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site. 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 (NI) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings, I re-consulted Shared Environmental Services and NIEA. Shared Environmental Services, having considered the nature, scale, timing, duration and location of the project concluded a further assessment was not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European Site. The proposed layout offers a natural land buffer of at least 30 metres from the red line boundary to the Ballinderry River as measured on GIS maps. This is in excess of the 10-metre land buffer required by NIEA in their consultation response in October 2019. NIEA stated they had no additional comment to make and reiterated their position in October 2019.

Consideration of objections

I outlined the objections at the top of this report and I advise the Members to consider all of these in light of my following observations on the issues raised as follows.

A number of the issues raised in the objection letters have been addressed through the submission of additional information and amended drawings. The site has been reduced in size, which has seen a reduction in the number of proposed dwellings down from 84 to 52 units. The houses sited within the odour zone have been removed and there are no longer any odour concerns with the proposed 52 dwellings. I will address the remaining issues below:

Ownership of land:

The applicant has submitted an amended P2 certificate together with P2A forms with notice served on DfI Roads Service, Mid Ulster Cars (T J Hamilton) and ES Cookstown 1719 petrol filling station. Any other matter of land ownership is a civil matter that is outside the remit of this planning application.

Noise:

An acoustic report was submitted on 13 November 2019 and EHD were consulted on this report.

Access and roads:

The access to the site with the reduced visibility splays has been assessed by DfI Roads who find the proposal acceptable in its current form. DfI Roads recommends a Stage 3 Road Safety Audit should be completed on occupation of 26 units and to the approval of DfI Roads. The totem pole is no longer in the line of the now shorter required visibility splays.

The layout and associated road improvement Works are subject to a Private Streets Determination. Conditions and informatives have been suggested for the inclusion in any planning approval.

Biodiversity:

The issue of fall back was addressed earlier in the report and members are advised planning history is a material consideration, but not to give it any determining weight to the argument that there is a fallback position for developing all of the approved houses on the site under I/2006/1186/F.

On 21 May 2020 NIEA were notified of a letter of objection received from a 3rd party, which raised concerns with regards to biodiversity and natural heritage. Their response was due on 11 June and despite a number of requests to speak to the case officer in NIEA and a reminder letter we have not received a response to the issues raised. It is considered reasonable to consider the previous responses from NIEA, which have not requested the submission of additional surveys. NIEA were previously made aware of the concerns of the 3rd party on behalf of an objector, which sought the submission of surveys for bats, otters, lizards, badgers and a Stage 2 Habitats Regulations Assessment.

Fallback position:

The right turn lane is not constructed as per the approved drawings of I/2006/1186/F. Given that no application was submitted for an amendment to the approved right turn lane, together with the fact that DfI Roads do not feel the condition can be discharged, the Council is of the view that it has not yet been demonstrated that the access is lawful and there is no fall back position.

Lack of information:

Where information was identified by either the Planning Department or any of the consultees the necessary reports were requested from, and submitted by, the applicant. I consider that all the required information has been submitted and assessed accordingly.

Contamination:

Environmental Health Department have not raised contamination as an area of concern.

Neighbour Notification Checked

Yes

Summary of Recommendation:

It is recommended to the Committee that this application 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 structure of the proposed dwellings should be as specified on P.24 of the acoustic report as a minimum standard.

Reason: In the interests of residential amenity.

3. Prior to the occupation of any of the dwellings hereby permitted a suitable 1.8m acoustic barrier should be erected to the rear of dwellings numbers 40 to 52 as highlighted in drawing 02/6. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

4. Prior to the occupation of any of the dwellings hereby permitted a second barrier of 2m height should be fitted to the rear of houses 1 to 4 to mitigate the noise from the filling station at these locations. Prior to the construction of the acoustic fencing full details shall be submitted to, and approved by the Council.

Reason: In the interests of residential amenity.

5. Dwellings 1 to 4 inclusive should be fitted with a whole house ventilation system to be specified by the acoustic consultant and agreed with planning to enable future residents to keep their windows closed in hot weather while maintaining requisite airflow and ventilation.

Reason: In the interests of residential amenity.

6. No development, with the exception of those portions of roads as shown on drawing number A1 02 Rev 6 "Proposed Layout", shall encroach upon lands identified by NI Water and incorporated within NI Water's Cookstown Wastewater Treatment Works, Odour Assessment Based on On-site Monitoring, Feb 2018.

Reason: In the interests of residential amenity.

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

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

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

8. No site works of any nature or development shall take place other than in accordance with the programme of archaeological work approved under condition 7.

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

9. A programme of post-excavation analysis, preparation of an archaeological report, dissemination of results and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved under condition 7. These measures shall be implemented and a final archaeological report shall be submitted to Mid Ulster District Council within 12 months of the completion of archaeological site works, or as otherwise agreed in writing with Mid Ulster District Council.

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

10. A suitable buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery.

Reason: To minimise the impact of the proposal on natural habitat.

11. There shall be no direct discharge of untreated surface water run-off during the construction and operational phase to the Ballinderry River.

Reason: To minimise the impact of the proposal on natural habitat.

12. All proposed works either temporary or permanent including fencing, drainage, private utilities or third party provisions should be kept within the site boundary as shown on drawing 17/6 date stamped 06 December 2019 ensuring all lands required for the Cookstown By-Pass are not prejudiced by the proposed development.

Reason: To ensure protection of land required for the Cookstown By Pass as indicated on the area plan.

13. The vehicular access, including visibility splays of 2.4m x 90m at the junction of the proposed access road with the Dungannon Road, and any forward sight distance, shall be provided in accordance with Drawing No.17/6 bearing the date stamp 06 December 2019 prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

14. A stage 3 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed on occupation of 26 units and to the approval of DfI Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out in agreement with DfI Roads Authority.

A stage 4 Safety Audit shall be carried out at the Right Turning Lane, 20 Dungannon Road, this should be completed to the approval of DfI Roads Authority in accordance with the Design Manual for Roads and Bridges, Standard GG119. Any recommendations/remedial works should be carried out in agreement with DfI Roads Authority.

Reason: In the interest of road safety.

15. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. The Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 17/6 bearing the date stamp 6 December 2019

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.

16. The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992. No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 17/6 bearing the date stamp 6 December 2019 The Council hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

17. The access gradients to the dwellings hereby permitted 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.

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

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

19. The vehicular access, including visibility splays of 2.4m x 33m at the access located at sites 30 and 31, and any forward sight distance, shall be provided in accordance with Drawing No. 17/6 bearing the date stamp 6 December 2019, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

Signature(s)

Date:

ANNEX	
Date Valid	3rd October 2017
Date First Advertised	19th October 2017
Date Last Advertised	26 th November 2019
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Glenwood Crescent, Cookstown, BT80 8XU Michael G Rogers RIBA, 1, Mountsandel Road, Coleraine, Londonderry, Northern Ireland, BT52 1JB The Owner/Occupier, 12 Dungannon Road Cookstown Tyrone The Owner/Occupier, 14 Dungannon Road, Cookstown, Tyrone, BT80 8TL The Owner/Occupier, 15 Dungannon Road, Cookstown, Tyrone, BT80 8TL Inaltus Ltd, 15 Cleaver Park, Belfast, Antrim, Northern Ireland, BT9 5HX The Owner/Occupier, 17-19 Dungannon Road, Cookstown, Tyrone, BT80 8TL The Owner/Occupier, 18 Dungannon Rd, Cooktown, Tyrone, BT80 8TL The Owner/Occupier, 2 Glenwood Crescent, Cookstown, BT80 8XU The Owner/Occupier, 22 Dungannon Road, Cookstown, Tyrone, BT80 8TL The Owner/Occupier, 3 Glenwood Crescent, Cookstown, BT80 8XU Mervyn Keegan, Director, AONA Environmental Consulting Ltd, Unit 8a, Northwest Business Park, Sligo Nigel McGurk EMAIL Mervyn Keegan, ENVEST, AONA Environmental Consulting Ltd, Unit 8A, Northwest Business Park, Sligo, Ireland Eamonn Loughrey, Inaltus Ltd, 15a Cleaver Park, Malone Road, Belfast, BT9 5HX The Owner/Occupier, Maxol Filling Station, Dungannon Road, Cookstown, Co. Tyrone Emma Quinn, McAleer Contracts Ltd, 130A Drum Road, Cookstown, BT80 9DN	
Date of Last Neighbour Notification	25 February 2020
Date of EIA Determination	23/01/2020
ES Requested	No
Planning History Ref ID: LA09/2016/0643/NMC Proposal: Minor Alterations to Previously Approved Housing Development I/2008/0773/F Address: Adjacent to Castle Road and to the Rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown, Decision: CG Decision Date: Ref ID: LA09/2017/0092/PAN Proposal: Residential Development Address: 20 Dungannon Road, Cookstown, Decision: PANACC	

Decision Date:

Ref ID: LA09/2017/0270/DC

Proposal: Removal of condition No.2 of Planning permission I/2006/1186/F

Address: Site at 20 Dungannon Road, (Brookmount House) Cookstown,

Decision: AL

Decision Date:

Ref ID: LA09/2016/1143/PAD

Proposal: Residential Development, with commercial, retail and office units and amended roads detail (amended description)

Address: Site at 20 Dungannon Road, Cookstown (Brookmount House) and adjacent Lands to the East,

Decision:

Decision Date:

Ref ID: LA09/2017/1366/F

Proposal: Proposed residential development comprising of 84 units to supersede development approved under ref I/2006/1186/F

Address: 20 Dungannon Road, Cookstown,

Decision:

Decision Date:

Ref ID: LA09/2016/0718/F

Proposal: Application to alter conditions No.7,8,9,10 and 14 of permission I/2008/0773/F

Address: Castle Road, Cookstown,

Decision: PG

Decision Date: 29.06.2016

Ref ID: LA09/2017/0255/NMC

Proposal: Minor change to site 1 dwelling and access moved to accommodate existing underground public storm water pipe

Address: Residential Development, adjacent to Castle Road and rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown,

Decision: CG

Decision Date:

Ref ID: LA09/2017/1133/DC

Proposal: Discharge of condition 6 on I/2008/0773/F

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road,

Decision: AL

Decision Date:

Ref ID: I/2004/0781

Proposal: Housing development

Address: Land at Dungannon Road, Cookstown

Decision:

Decision Date:

Ref ID: I/2006/1186/F

Proposal: Demolition of existing dwelling and sheds and erection of a) 82 apartments b) 20 semi detached dwellings _ c) 47 terrace dwellings

Address: Site at 20 Dungannon Road, Cookstown (Brookmount House) and adjacent Lands to the East

Decision:

Decision Date: 18.05.2012

Ref ID: I/1999/0313

Proposal: Site for housing with provision of access road

Address: 20 Dungannon Road Cookstown

Decision:

Decision Date: 15.01.2001

Ref ID: I/2003/1165/CD

Proposal: Replacement Waste Water Treatment Works for Storm and Foul Sewage.

Address: Cookstown Wastewater Treatment Works, Castle Road, Cookstown.

Decision:

Decision Date: 04.05.2005

Ref ID: I/1997/0426

Proposal: Improvements to existing Sewage Disposal Works

Address: Cookstown Sewage Treatment Works, Castle Road, Cookstown

Decision:

Decision Date: 31.01.2001

Ref ID: I/2009/0417/F

Proposal: Construction of access road to link proposed housing development (Application Ref: I/2006/1186/F) with Castle Road and to include road improvements/road re-alignment across the Castle Road frontages of No's 2, 4, 6, 8, 10, 12, 13, 14, 16, 18, 20, 22, 24, 28, 28A, 30, 33, 35, 41, 41A, 51, 51A & 58 Castle Road. (Revised drawings and planning application form)

Address: Site at 20 Dungannon Road, Cookstown (Brookmount House) plus adjacent lands to the east and Castle Road, Cookstown.

Decision: PG

Decision Date: 06.06.2013

Ref ID: I/2008/0773/F

Proposal: Proposed residential development comprising detached dwellings, semi detached dwellings and townhouses, associated landscaping, site works and upgrading of Castle Road (as per previous approval I/2001/0862/F) (total 67 units).

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road

Decision: PG

Decision Date: 23.10.2014

Ref ID: I/2013/0170/F

Proposal: Proposed extension to car showroom

Address: 18 Dungannon Road, Cookstown,

Decision: PG

Decision Date: 20.08.2013

Ref ID: LA09/2015/1259/NMC

Proposal: Amendment to extent of area coloured red on private streets determination (PSD) drawing stamped approved drawing No98 (Lisbane consultants reference Dwg No 12-012-H10c)

Address: Site adjacent to Castle Road, Cookstown and to the rear of 1-13 Castle Road and 6-12 Dungannon Road, Cookstown,

Decision: CG

Decision Date:

Ref ID: LA09/2016/0266/O

Proposal: Bedroom and Ancillary Accommodation

Address: 26 Dungannon Road, Cookstown,

Decision: PG

Decision Date: 11.07.2016

Summary of Consultee Responses

HED Historic Monuments:

Has considered the impacts of the proposal and is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. This is to identify and record any archaeological remains in advance of new construction, or to provide for their preservation in site, as per Policy BH 4 of PPS 6. They have attached conditions they wish to be included should approval be granted.

DAERA:

Natural Environment Division:

Has considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, has no concerns subject to recommendations.

Rivers Agency:

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 Drainage Assessment, accepts its logic and has no reasons 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. The Strategic Flood Map (NI) indicates that the site does not lie within the 1 in 100 year fluvial flood plain.

Shared Environmental Services:

Having considered the nature, scale, timing, duration and location of the project it is concluded that further assessment is not required because it would not have a likely significant effect on the selection features, conservation objectives or status of any European site. 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 (NI) 1995 (as amended). The proposal would not be likely to have a significant effect on the features of any European site.

Dfl Roads:

The layout and associated road improvement Works are subject to a Private Streets Determination. Conditions and informatives have been suggested for the inclusion in any planning approval

Dfl Roads recommends prior to commencement of the development the stage 3 safety audit report is submitted to the Department for assessment/review.

NI Water:

NI Water has considered the revised housing layout and their previously held concerns regarding dis-amenity that might be experienced as a result of development in proximity to Cookstown WWTW are now largely removed. The revised housing layout complies with the limit of development encroachment upon the WWTW. This is confirmed through the accepted super-positioning of the agreed odour risk area upon the relevant development layout proposal.

NI Water is content to provide a qualified support to the application and is qualified on the following basis:

- The proposed layout of the dwellings is not amended;
- MUDC should satisfy itself as to the implications of the kick about space being located within the agreed odour risk areas;
- That all references, detailing or associations with previous proposal to develop within the agreed odour risk area have been expunged from all of the relevant approval documentation.

A condition has been suggested by NI Water as outlined in the conditions below. This is for the purpose of ensuring compatibility of the development with the operation of the existing and adjacent Cookstown Wastewater Treatment Works and its associated sludge processing activity. This is to ensure there is no detriment to residential amenity or constrain on public wastewater service provision.

Environmental Health Department:

A number of objections to this application were received relating to potential noise disturbance to occupants of the new dwellings. Since this date a noise assessment has been submitted in support of this application by Grainger Acoustics dated 13th November 2019.

Further to this report the Environmental Health Service would recommend the inclusion of a number of conditions. Upon receipt of amended P2 form, P2A Form and confirmation of the application description for 52 residential dwellings I re-consulted

Enivonmental Health. They have responded stating they have no additional comments to make and their recommendations outlined in their reply of 2 December 2019 remain.

Drawing Numbers and Title

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

Drawing No. 02/6
Type: Site Layout or Block Plan
Status: Submitted

Drawing No. 03/1
Type: Site Appraisal or Analysis
Status: Submitted

Drawing No. 04/1
Type: Housing Concept Plan
Status: Submitted

Drawing No. 05
Type: Proposed Plans
Status: Submitted

Drawing No. 06
Type: Proposed Plans
Status: Submitted

Drawing No. 07
Type: Proposed Plans
Status: Submitted

Drawing No. 08
Type: Proposed Plans
Status: Submitted

Drawing No. 09
Type: Proposed Plans
Status: Submitted

Drawing No. 10
Type: Proposed Plans
Status: Submitted

Drawing No. 11
Type: Proposed Plans
Status: Submitted

Drawing No. 12/5
Type: Landscaping Plan
Status: Submitted

Drawing No. 13
Type: Existing Plans
Status: Submitted

Drawing No. 14/4
Type: Road Access Plan
Status: Submitted

Drawing No. 15/1
Type: Cross Sections
Status: Submitted

Drawing No. 16/1
Type: Cross Sections
Status: Submitted

Drawing No. 17/6
Type: Roads Details
Status: Submitted

Drawing No. 18
Type: Technical Details
Status: Submitted

Drawing No. 19
Type: Cross Sections
Status: Submitted

Drawing No. 20
Type: Drainage Layout
Status: Submitted

Notification to Department (if relevant)

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



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2018/1648/F	Target Date: <add date>
Proposal: Retention of open-sided storage building	Location: Creagh Concrete Products Ltd Blackpark Road Toomebridge
Applicant Name and Address: Creagh Concrete Products Ltd Blackpark Road Toomebridge BT42 3SL	Agent Name and Address: Gemma Jobling JPE Planning 1 Inverary Valley Larne BT40 3BJ
Summary of Issues: <p>This application is for retention of an aggregate store associated with a larger industrial site. An objection has been received, on behalf of the Estate of Cassie Diamond which one of the Planning Officers in the Councils Planning Department has an interest in. The objection questions the ownership of the land, processing of the application in relation to the submission of land ownership certificates and advertising of the development as well as contravening the European Convention on Human Rights. Parties have been afforded the opportunity to submit views on the landownership issue and comment on each others views. Additional objections have been received from Mrs Teresa Brown and Ms Patricia Stuart which raise similar issues to those already raised. Solicitors acting for the objectors have been afforded the opportunity to comment on the submissions and have queried the impartiality of the case officer in dealing with the application. Concerns have been raised in relation to Council meetings during the Pandemic.</p>	
Summary of Consultee Responses: DFI Rivers - development not inside 1 in 100 year flood area	

Characteristics of the Site and Area:

The application site is part of the larger Creagh Concrete Products manufacturing site at the Creagh. The site contains a mono-pitched roof building which is 6.9m to the front and 5.3m to the rear. The roof is finished with a profiled metal finish, it is open to the north and has concrete panels to the side and partially to rear. The upper part of the rear elevation is open with netting at the top. The building is located close to the site boundary which is post and wire fencing with an agricultural field beyond. Access to the building is through the existing concrete works where there are a number of large buildings, cranes and open storage areas..

Description of Proposal

The proposal is for the retention of the open sided building, it is 33.7m long and 11.9m deep, it has a monopitched roof which is 6.9m to the front and 5.3m to the rear. The building is open to the front and has concrete panel walls to the sides and up to 3.3m at the rear. The remainder of the rear walling is black netting. The building is used to store aggregates.

Deferred Consideration:

This application was before the Planning Committee in November 2019 and it was agreed to defer to allow submissions from the applicant and the objector in relation to the completion of the correct Certificate and Section 42 – Notifications of application to certain persons.

Submissions have been received and the Council has sought legal advice. This has been summarised for member's attention.

TLT Solicitors provided a written submission dated 2 December 2019 on behalf of the applicant, it acknowledges the land ownership is in dispute and that it is appropriate to complete Certificate D and advertise in the newspaper. Stewarts Russell Solicitors & Notary Public provided a written response on 21 January 2020 and stated their client was entitled to be notified as owner and as this did not happen the applicant must start the process again. Additionally on 14 August 2020, the solicitors for the objectors have advised they wish to work to resolve the breach of planning control, they consider the case officer has been compromised by advising, in a letter dated 22 June 2020, that the application was valid. It further questions the Planning Manager's involvement in providing advice about the certificate (of land ownership) that should be completed.

TLT Solicitors have taken the opportunity to comment on the submission on behalf of the Estate of Cassie Diamond. They say the case law referred to by the objector did relate to land ownership queries, however the case law referred to by the objector relates to circumstances where the applicant stated they owned all the relevant land where in fact a 3rd party was in possession of part of it. They say the ruling makes it clear the purpose of the certificate is to ensure certain persons likely to have an interest in or are affected by the outcome ... are notified. The ruling does not say the application must be returned but that the planning authority may refuse to entertain the application further until the owner is notified. TLT acknowledge there is a question over land ownership and that notifications have been carried out in the local press. These advertisements must have had the desired effect as an objection has been received on behalf of the Estate of Cassie Diamond. TLT

say the case law actually favours the applicant and there is nothing to prevent the Council from making a decision on the application.

On 14 August 2020, the solicitors for the objectors provided a letter and a supporting statement on behalf of the Diamond family which they advise is in relation to the legislative requirements of Section 42 of the Planning Act. In the letter they have advised their clients wish to work to resolve the breach of planning control, they consider the case officer has been compromised by advising, in a letter dated 22 June 2020, that the application was valid. It further questions the Planning Manager's involvement in providing advice about the certificate (of land ownership) that should be completed. In relation to the suggestion that the case officer has been compromised, the letter was written taking into account information received by Counsel who had sight of the submissions from the parties. The case officer is providing a recommendation to the Planning Committee and it is a matter for the Planning Committee to reach a decision. Due to the opportunity for the Committee to decide and debate the application it is not considered there has been any prejudice or compromise here. The Planning Manager comments in relation to completing the ownership certificate relate to notes obtained from file ref LA09/2016/1090/F, an application for a new access that was withdrawn and did not have a decision taken on it, and are not in relation to this application.

The submission is in 4 broad headings and are summarised below:

- Advertisement published in the local paper was not the correct notice
This has been remedied and a notice which is generally in accordance with page 20 of the General Permitted Development Order (NI) 2015 was published in The Mid Ulster Mail on 14 March 2019.
- Land Ownership
The land is registered to Cassie Diamond who died in 1993 interstate. Her estate passed to her 4 siblings and a personal representative was appointed. Land registry deeds confirm the applicant does not own the lands. Creagh began negotiations with The Diamond Family to acquire the lands these negotiations broke down.
- Section 42 Planning Act (NI) 2011 and Article 9 (General Development Procedure) Order (NI) 2015.
Section 42 requires the applicants to serve notice on the land owner if they do not own the designated land. Certificate C or D require the applicant to serve notice on the owner or those who have a legal interest in the land to allow them to make representations if they so choose. The applicant should serve notification on the current personal representative who will contact those who have a legal interest in the land.
- Section 45 of the Planning Act (NI) 2011
Representation made by the landowner are material considerations that must be taken into account in the determination of the application. Previous representations not given any weight in the determination of the application and this is not a civil matter.

The statement concludes by placing the Council on notice that should planning permission be granted, if there are any subsequent decisions by the Judiciary that do not favour Creagh Concrete, the objectors will seek revocation of the planning permission and seek the Council to pay all costs for the building to be taken down and removed.

Counsel opinion is that:

- The purpose of the Certificate is to identify anyone with an interest in the land, the objector complains they were not notified however are clearly aware of the application and have made a formal objection.

- As long as the objection has been properly considered, failure to formally notify will not invalidate the application.
- The objector alludes to other persons having an interest in the land, though it is not clearly established, is a matter in dispute and one the Planning authority cannot resolve.
- A public notice was issued which invited interested parties to come forward.
- The Council sought further details from the objector about other interested parties whom the objector considered has an interest in the land.
- Counsel advice is that the purpose of Section 42 has been met and any subsequent decision will not necessarily be invalid. Council does however have the opportunity to ask the applicant to formally notify the personal representatives of the estate.
- As the application has not yet been decided upon, the Council does have the opportunity to ask the applicant to formally notify the personal representatives of the estate. This course of action would be in an abundance of caution and is not required.

Members can quite clearly see the objections that have been received in relation to the land ownership matters have been considered in this report for the determination of this application. However the application has been considered against the relevant planning policy and there is no dispute that it meets that policy. In light of this my recommendation is that the land ownership issues are not given determining weight in this application and the alleged trespass is a civil matter that may be pursued, by the representatives of the late Cassie Diamond.

The objector quotes Article 1 of Protocol 1 of the European Convention on Human Rights which covers the protection of property and the peaceful enjoyment of possessions. The Human Rights Act 1998 and the Convention refer to both Article 1 of the First Protocol, which provides for the protection of property and peaceful enjoyment of possessions and Article 8 of the Convention, which provides a right to respect for private and family life are engaged by this breach of planning. However, these are qualified rights and the legislation clearly envisages that a balance be struck between the interests of individuals and those of society as a whole. The retention of the unauthorised building is in accordance with extant planning policy and therefore I do not see any reason why the development should not be approved.

The European Convention, Article 6 also enshrines the right to a fair hearing. Both parties have been invited to provide their written evidence and are entitled to speak at the planning committee, provided they follow the published protocol.

Therefore, it is my view there are no Human Rights grounds for refusal of this application.

A letter of objection was received from Mrs Teresa Brown, who claimed she is the niece of the last surviving sibling of the late Cassie Diamond. The objection relates to the land ownership matters and validity of the application. Members will be aware these are the matters that further information has been sought on and fully considered in the report. The objection further raises questions about the processing of the enforcement cases and expresses disappointment at the Council holding public meetings during the Pandemic. These are not matters that now have any significant impact on the determination of the application at this stage as the Council has been adhering to the Executive Guidelines and the related enforcement case will be considered in light of any decision taken on this application

Ms Patricia Stuart also lodged an objection that raises issues relating to the validity of the application and Human Rights grounds. These matters have been considered in the report.

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

As has already been concluded in the previous report to Committee, the proposed development meets with the published planning policies, as such is acceptable and is recommended for approval.

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

Informatives:

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

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1648/F	Target Date: 01/04/2019
Proposal: Retention of open-sided storage building	Location: Creagh Concrete Products Ltd Blackrock Road Toomebridge
Referral Route: An objection has been received to the application.	
Recommendation:	Approval
Applicant Name and Address: Creagh Concrete Products Ltd Blackrock Road Toomebridge BT42 3SL	Agent Name and Address: Gemma Jobling JPE Planning 1 Inverary Valley Larne BT40 3BJ
Executive Summary: This application is for retention of an aggregate store associated with a larger industrial site, an objection has been received that questions the ownership of the land, processing of the application.in relation to the submission of land ownership certificates and advertising of the development.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	Rivers Agency	Advice

Representations:

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

Summary of Issues

The land is not owned by the applicant, land registry records show who owns the land, the application has been accompanied by the wrong certificate under Section 42 of the Planning Act (NI) 2011.

Characteristics of the Site and Area

The application site is part of the larger Creagh Concrete Products manufacturing site at the Creagh. The site contains a mono-pitched roof building which is 6.9m to the front and 5.3m to the rear. The roof is finished with a profiled metal finish, it is open to the north and has concrete

panels to the side and partially to rear. The upper part of the rear elevation is open with netting at the top. The building is located close to the site boundary which is post and wire fencing with an agricultural field beyond. Access to the building is through the existing concrete works where there are a number of large buildings, cranes and open storage areas.

Description of Proposal

The proposal is for the retention of the open sided building, it is 33.7m long and 11.9m deep, it has a monopitched roof which is 6.9m to the front and 5.3m to the rear. The building is open to the front and has concrete panel walls to the sides and up to 3.3m at the rear. The remainder of the rear walling is black netting. The building is used to store aggregates.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Magherafelt Area Plan 2015

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

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

Planning Policy Statement 21: Sustainable Development in the Countryside

Relevant Histories

LA09/2018/0826/F - Erection of new gantry crane for loading / unloading of pre cast concrete products and retention of extension to concrete yard for storage of pre cast concrete products.- Ongoing

LA09/2016/1446/F - Proposed development of a 500 Kw Centralised Anaerobic Digestion (CAD) plant, Combined Heat and Power (CHP) plant, access (part of link road) and ancillary site works - Lands approx. 365 m south east of no. 20 Blackpark Road and to the rear of Creagh Concrete, Toomebridge – Withdrawn 13.03.2017

LA09/2016/1090/F - New Access into Creagh Concrete Products Ltd site from Creagh Industrial park (off Hillhead Road) including the construction of a 24m length extension of the Creagh Industrial park road leading to an internal roadway within the Creagh Concrete Products site - Withdrawn 05.10.2018

LA09/2016/0692/F Erection of new building for washing/ drying of precast concrete products (retrospective). Erection of new gantry crane for loading /unloading of precast concrete products. extension of existing production factory TF5 to facilitate to production of larger precast concrete – Granted 05.10.2017

LA09/2015/1239/F - Removal and alteration of Conditions 2, 3 and 6 of previous approval H/2007/0546/F relating to noise and operating hours – Granted 07/09/2017

H/2013/0296/F - Reinstatement and extension of previously approved storage area, lorry and trailer park to facilitate reorganisation of precast products and increased variety of stock products, colour and size with no increase in existing site production area. Relocation of existing external block and brick production area (5200m²) to proposed new area (4320m²) with original being reused for product display, product finishing, product and plant storage, vehicle storage and recyclable material waste and storage. Retention of existing product display, product finishing, product and plant storage, vehicle storage and recyclable material waste storage. (Amended Noise report received) – Granted 05.10.2017

H/2010/0159/F - Erection of a 250kw wind turbine with a tower height of 40m | Creagh Concrete Factory, Blackpark Road, Toomebridge (approx 40m West of main office building) - Withdrawn 05.08.2010

H/2007/0546/F - Removal of existing metal single skin, and roof cladding on existing concrete products factory, and replacement with new insulated metal cladding. Extension of existing concrete products factory to encompass storage yard. Demolition of existing single skin corrugated tin factory and replacement with new factory building - Granted 12.05.2008

H/2007/0077/F - Demolition of existing uninsulated staff canteen & garage building & construction of new staff canteen & offices building, with staff toilets, locker room & showers – Granted 09/05/2007

H/2006/0703/F - Lean-to extension, along approx 1/2 length of existing building, for the curing of Concrete Products produced in the existing building - Withdrawn 26.05.2008

H/2006/0279/O - Easterly extension to existing precast concrete works to facilitate the reconfiguration of existing plant and building units, and to provide new manufacturing facility and additional hardstanding areas to permit vehicle turning areas and storage. Provision of a new access is proposed via Creagh Buisness Park, Estate Road, egressing at Creagh Roundabout, Hillhead Road – Appeal Upheld 13.06.2008

H/2005/1118/F - Retrospective change of use from agricultural field to a proposed extension of storage yard and lorry park (trailers) – Granted 05.2008

H/2005/0739/F - 1 No. Building for storage of items necessary for existing factory production. 1 No. Building for the tying and cutting of reinforcement bars used in factory products – Granted 07/09/2006

H/2000/0178/F - Extension of Offices – Granted 12/05/2000

H/1998/0307 - mixing plant and workshop for the production of concrete products and associated office and canteen – Granted (historical)

H/1998/0071 - site of industrial park to include new roads layout - S.E of junction of Hillhead Road and Blackpark Road the Creagh Magherafelt - Withdrawn 05.06.1998

H/1996/0227 - precast concrete casting factory – Granted (historical)

Relevant Enforcement History on Site

LA09/2018/0078/CA - Unauthorised building - this case is on hold pending the outcome of the current planning application.

Representations

Neighbour notification and press advertisement have been carried out in line with the Council's statutory duty. Copies of letters were hand delivered on 5 April 2019, at the time of the site inspection, to Conor Morgan Cars; John H Place (Steels); 36c Black Park Road and Moyola/Toome Credit Union.

Due to an administrative error, the address for this site was initially input as Blackrock Road. Following the discovery of this error the application was re-advertised and the neighbours notified

One objection to the proposal has been received which relates to the ownership of the land and the address that was used for advertising purposes.

Section 42(1) of the Planning Act (NI) 2011- The Act - states that the Council must not entertain an application unless it is accompanied by a one of the Certificates (a) – (d), these relate to statements of land ownership. Section 42 (6) sets out the circumstances where it is an offence in relation to the completion of these certificates. The application has been accompanied by Certificate D of Section 42, it is stated on the certificate ' Without prejudice to its opinions that the applicant is in actual possession of all the lands to which the application relates, the applicant cannot at this time certify clear title to the entire extent of the application albeit that no other part has identified any established rights over the same land.' The applicant advertised this in the Mid Ulster Mail on 13 December 2018, however the advertisement did not specify that it was under Section 42 of the Planning Act. The applicant advertised an amended notification in the Mid Ulster Mail on 14th March 2019. I am content that the application has been accompanied by one of the required certificates and as such this is a valid planning application. The advertisement clearly specifies that anyone who has an interest in the land is entitled to make a representation to the Council. The objection has been submitted on behalf of the Estate of Cassie Diamond and is accompanied by land registry maps and extracts that were searched on 27 July 2019 and identify the owner of folio 18850 in the County of Londonderry as last registered in the name of Cassie Diamond of Annahorish, Castledawson and it was registered on 8th May 1962. Part 5 of the folio includes the application site. The matter of whether or not there is an offence committed in the completion of the certificate pursuant to Section 42 is not, in my opinion, a matter for the Planning Committee to decide upon. Members will be aware that planning permission does not grant title and an informative can be added to any decision to reinforce that point.

Article 3 (2) (b) of the Planning (General Development Procedure) Order (NI) 2015 – GDPO – sets out what an application for planning permission shall contain the postal address of the land to which the development relates or, if the land in question has no postal address, a description of the location of the land'. Royal Mail Post Code search identifies the postal address for Creagh Concrete Ltd, as Creagh Concrete Ltd, 38

Blackpark Road Toomebridge Antrim BT41 3SL. Creagh Concrete Ltd occupy a large site at Blackpark Road, however I am content that a postal address has been used and if residents or interested parties had sight of the advertisement in the local papers, they would know where the site is and could make further inquiries to satisfy themselves of the exact location. I am of the opinion that the application meets with the requirements of the GDPO and has been advertised correctly.

Magherafelt Area Plan 2015

The site lies outside any settlement limit defined in the Magherafelt Area Plan 2015, it is close to Creagh (a designated small settlement), Creagh Business Park and Zoned Industrial Lands (COU10) and a Transportation Scheme for a new Road Link between A6 and Aughrim Road (COU8). I do not consider the proposal impacts on the identified road line and I do not consider there any policies within the plan that deal with industrial development in the countryside.

Mid Ulster District Council Draft Plan Strategy 2030

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

SPPS – Strategic Planning Policy Statement for Northern Ireland

The Strategic Planning Policy Statement for Northern Ireland sets out the Departments Regional Planning Policies and provides guidance for the Councils to take into account in their Local Development Frameworks. Until the Council has adopted its own LDP, current regional policy as set out in the suite of Published Planning Policy Statement provides the planning policies for consideration unless the SPPS provides a different policy direction or offers clarification, then the policy in the SPPS is given determining weight. I do not consider the SPPS has changed any policies in relation to the expansion of an existing business in the countryside.

Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS21 allows a number of types of development in the countryside, where it relates to business development if the policies contained within PPS4 are met then the proposal will meet with CTY1.

Policy PED2 of PPS4 allows economic development in the countryside where it meets with other specified criteria in policies PED3 – PED6 and the general criteria in PED9 is relevant to the consideration of all economic development proposals.

I consider PED3 – Expansion of an Existing Industrial Development in the Countryside

This proposal is for the retention of a building associated with a well established business 'Creagh Concrete Ltd' and as such I consider this is the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

Policy PED 3 states the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise.

Aerial photographs of the site from 13 May 2005 indicate the area the building is on was within the existing industrial site and as such there is no increase in the site area because of this development. (Annex A) The proposal is for the retention of a building with a floorspace of approx.. 400sqm in area. Views of the building from the surrounding public road network are limited and the building is seen with the much larger buildings in the vicinity. I consider the building integrates into its surroundings.

In addition to Policy PED 3, this proposal is required to meet the requirements of Policy PED 9 - General Criteria for Economic Development, which for the following reasons I consider it does:

- this proposal is considered compatible with the surrounding land uses given the existing similar economic uses in the vicinity including those at Creagh Business Park to the northeast of the site.
- The building is located within the existing yard, there may be issues relating to noise and dust due to this building, however I do not think, given the existing development and uses around it, as well as the distance from existing and approved residential properties, that this building will unduly exacerbate any existing issues.
- 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.
- Whilst information in the DEARA Flood Maps indicate this is an area at risk from flooding, a Flood Risk Assessment has been provided that indicates the ground level of the building is above the 1:100 year fluvial flood plain. This report has been considered by Rivers Agency and they have advised they do not have any reason to disagree with the information. As the development is not in an area that floods, it is not at risk from flooding and will not cause displacement of flood water that would put other properties at risk.
- There will be no effluent and no concerns regarding emissions have been raised.
- This proposal does not involve the creation of a new access unto a public road or intensification of the existing site access.
- This building is for storage of aggregates and as such is unlikely to result in the need to provide an additional links to footways or alternative modes of transport
- The building does not include any new landscaping or infrastructure, it is of an appearance that is not out of place in this type of industrial environment, where there is little in the way of landscaping and as such, I do not consider it is necessary to request additional landscaping. It does not propose any outdoor storage and encloses an area that was previously outdoor storage

- The proposal does not involve any new fences, as the site is self-contained and well secured, it is generally designed to deter crime and promotes personal safety.

Taking account of all of the above, I consider this proposed development can be considered to meet PED3 of PPS4 and can be approved.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

Signature(s)

Date:

ANNEX

Date Valid	17th December 2018
Date First Advertised	10th January 2019
Date Last Advertised	01 st October 2019
Details of Neighbour Notification (all addresses) The Owner/Occupier, 1 Homelands, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3TA The Owner/Occupier, 36c Blackpark Road Toomebridge The Owner/Occupier, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, John H Place (Steels), 44 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Moyola _ Toome Credit Union, 35 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL The Owner/Occupier, Newbridge Youth Centre, 40 Blackpark Road, Toomebridge, Toome, Londonderry, BT41 3SL James L Russel & Son Solicitors & Notary Public, "Maine-Lea", 55 High Street, Ballymena, BT43 6DT	
Date of Last Neighbour Notification	20 th September 2019
Date of EIA Determination	18 October 2019
ES Requested	No
Planning History Ref ID: LA09/2017/0054/RM Proposal: Two Storey House Address: 40m SE of 34 Blackpark Road, The Creagh, Toomebridge, Decision: PG Decision Date: 28.02.2017 Ref ID: LA09/2018/1648/F Proposal: Retention of open-sided storage building Address: Creagh Concrete Products Ltd, Blackrock Road, Toomebridge, Decision: Decision Date:	

Ref ID: H/2007/0546/F

Proposal: Removal of existing metal single skin, and roof cladding on existing concrete products factory, and replacement with new insulated metal cladding. Extension of existing concrete products factory to encompass storage yard. Demolition of existing single skin corrugated tin factory and replacement with new factory building

Address: Creagh Concrete, Blackpark Road, Toomebridge

Decision:

Decision Date: 13.05.2008

Ref ID: H/2006/0279/O

Proposal: Easterly extension to existing precast concrete works to facilitate the reconfiguration of existing plant and building units, and to provide new manufacturing facility and additional hardstanding areas to permit vehicle turning areas and storage. Provision of a new access is proposed via Creagh Buisness Park, Estate Road, egressing at Creagh Roundabout, Hillhead Road.

Address: Creagh concrete site, Blackpark Road, Toomebridge, with additional access onto Hillhead Road, via the Estate Road through Creagh Buisness Estate.

Decision:

Decision Date:

Ref ID: H/1998/0307

Proposal: MIXING PLANT AND WORKSHOP FOR THE PRODUCTION OF CONCRETE

PRODUCTS AND ASSOCIATED OFFICE AND CANTEEN

Address: ADJACENT TO CREAGH CONCRETE PRODUCTS 40 BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2003/0062/F

Proposal: Extension to existing offices to increase existing office/storage space, additional toilet facilities and to facilitate the introduction of a disabled lift with provision for ramped access to conform with DDA regulations.

Address: Blackpark Road, Toomebridge.

Decision:

Decision Date: 19.03.2003

Ref ID: H/1996/0227

Proposal: PRECAST CONCRETE CASTING FACTORY

Address: CREAGH CONCRETE PRODUCTS BLACKPARK ROAD TOOMEBRIDGE

Decision:

Decision Date:

Ref ID: H/2005/0739/F

Proposal: 1 No. Building for storage of items necessary for existing factory production. 1 No. Building for the tying and cutting of reinforcement bars used in factory products.
Address: Creagh Concrete Products, Blackpark Road, Toomebridge, Co.Antrim.
Decision:
Decision Date: 25.09.2006

Ref ID: H/1993/0533
Proposal: EXTENSION TO WORKSHOP
Address: 44 BLACKPARK ROAD TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/1978/0076
Proposal: OFFICES AND WEIGHBRIDGE
Address: CREAGH INDUSTRIAL ESTATE, TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/1990/0181
Proposal: ALTS AND ADDS TO OFFICES
Address: BLACKPARK ROAD TOOMEBRIDGE
Decision:
Decision Date:

Ref ID: H/2007/0077/F
Proposal: Demolition of existing uninsulated staff canteen & garage building & construction of new staff canteen & offices building, with staff toilets, locker room & showers
Address: Creagh Concrete Products Ltd, 34 Blackpark Road, Toomebridge
Decision:
Decision Date: 11.05.2007

Ref ID: H/2006/0703/F
Proposal: Lean-to extension, along approx 1/2 length of existing building, for the curing of Concrete Products produced in the existing building
Address: Bradstone Factory Building, Creagh Concrete Products Ltd, 34 Blackpark Road, Toomebridge, Co. Antrim, BT41 3SL
Decision:
Decision Date: 26.05.2008

Ref ID: LA09/2016/0692/F
Proposal: Erection of new building for washing/ drying of precast concrete products (retrospective). Erection of new gantry crane for loading /unloading of precast concrete products. extension of existing production factory TF5 to facilitate to production of larger precast concrete units

Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge,
Decision: PG
Decision Date: 06.10.2017

Ref ID: LA09/2015/1239/F
Proposal: Removal and alteration of Conditions 2, 3 and 6 of previous approval
H/2007/0546/F relating to noise and operating hours
Address: Creagh Concrete Products Ltd, Blackpark Road, Toomebridge,
Decision: PG
Decision Date: 07.09.2017

Ref ID: LA09/2016/0519/O
Proposal: Two Storey House
Address: 40m SE of No 34 Blackpark Road, The Creagh, Toomebridge,
Decision: PG
Decision Date: 13.01.2017

Ref ID: H/2014/0071/F
Proposal: Proposed extension to existing industrial premises for the storage of steel
Address: 44 Blackpark Road, Toomebridge,
Decision: PG
Decision Date: 01.07.2014

Summary of Consultee Responses

Rivers Agency -

Drawing Numbers and Title

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:

ANNEX A – Aerial Photograph of site dated 13 May 2005



Aerial Photograph 23 May 2018





Deferred Consideration Report

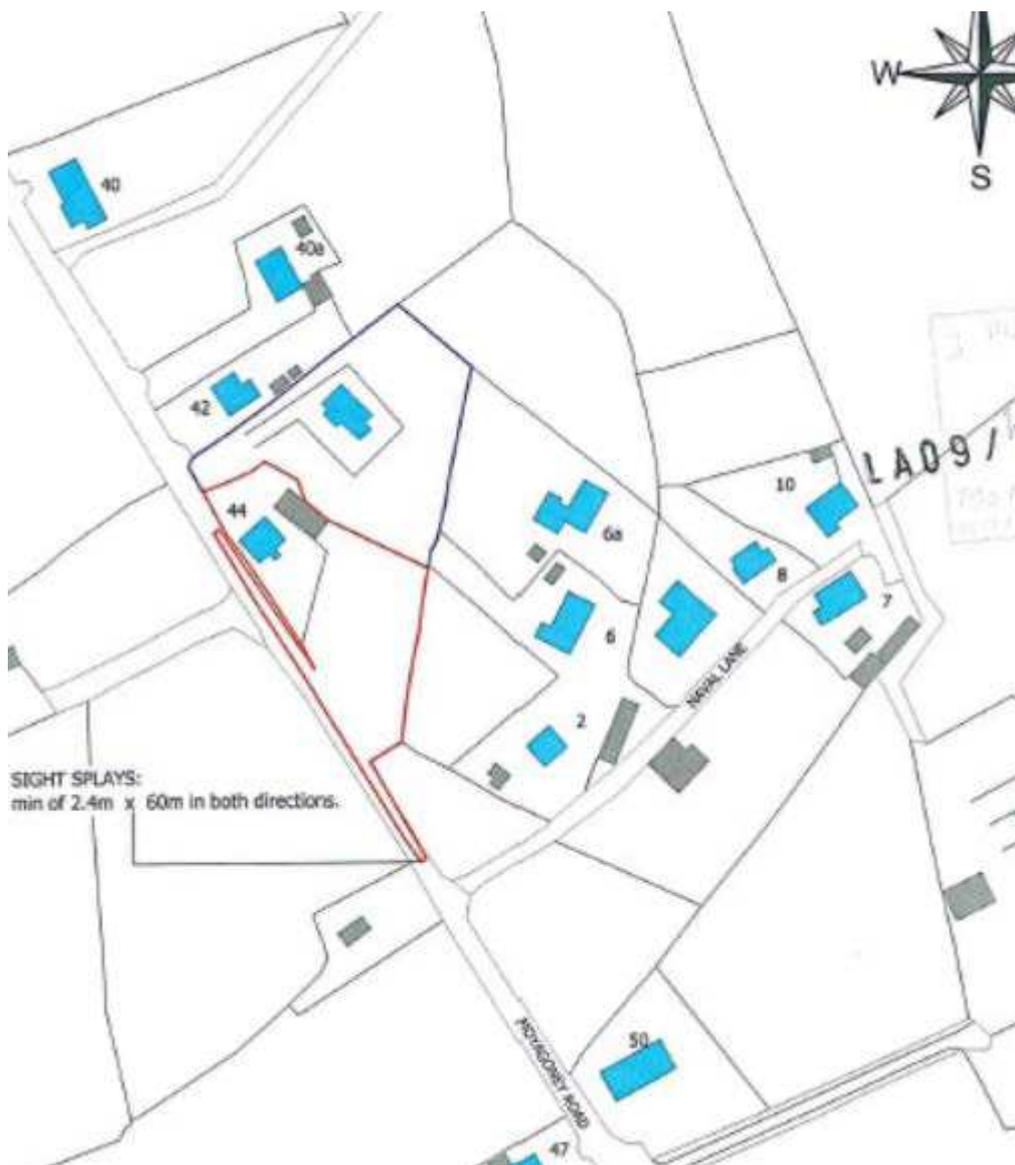
Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0787/O	Target Date:
Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	Location: 40m South West of 44 Moyagoney Road Portglenone
Applicant Name and Address: Mr Paul Madden 44 Moyagoney Road Portglenone	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Following the first deferral of the above application, it was deemed the information submitted to prove an active and established farm business was not sufficient. Also if approved, a dwelling would on the site would create a ribbon of development. However following a re-assessment and additional information from the agent, an approval with conditions is now recommended.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the	

site. The boundaries of the site are currently defined by mature hedging. The site slopes upwards in an easterly direction. There are currently overhead lines located along the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site.

The surrounding area is largely characterised by residential and agricultural uses.

Description of Proposal

The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)



Deferred Consideration:

This application was presented as a refusal to Planning Committee in Nov 2019 as inadequate evidence was submitted to prove an active and established farm business under criteria (a) of CTY10. Criteria (b) and (c) have been met if the farm case can be proven.

It was deferred for an office meeting with the Area Planning Manager on 14/11/19. No Farm Bus ID has been provided so it is up to the applicant to demonstrate the farm business has been active and established for at least 6 years. The transactions were limited and appeared occasional, one has been submitted for each of years 2015 to 2019. The occasional sale of it would not constitute an active and established farm business in the sense of CTY10.

This application was then presented to Committee in April 2020 as a refusal under CTY10 and CTY8, but was granted a second deferral to consider further invoices and receipts which were submitted prior to the planning committee meeting. The agent was advised the information submitted was still not deemed sufficient to demonstrate a 'business' existed, a business case was then to be submitted to support this. After a number of requests for this information a lease agreement was submitted in March 2021.

The agent submitted a con acre agreement that shows the applicant has an agreement to rent to land since May 2016. This on its own would not equate to 6 years of a farm business and falls short by almost a year as it would not be the required 6 years until May 2022.

However a previous signed lease of the same parties was then submitted, showing a continuous business from May 2010 until 2016 as per the agreement in the lease. I am content there has been in existence a farm business for at least the requisite 6 years in terms of policy requirement, and as stated, the other parts of the criteria for CTY10 have also been met.

A dwelling on this site would not have any detrimental impact on the existing built up character in this area, and if limited to a ridge height of 6m it will integrate into the surrounding area.

Approval with conditions is now recommended.

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

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. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements 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.

5. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the Commencement of the development.

Reason: In the interests of visual amenity.

7. The proposed dwelling shall have a ridge height of less than 6.0 metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

8. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

Signature(s):

Date

Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2019/0787/O	Target Date:
Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	Location: 40m South West of 44 Moyagoney Road Portglenone
Applicant Name and Address: Mr Paul Madden 44 Moyagoney Road Portglenone	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: Following the deferral of the above application, it was deemed the information submitted to prove an active and established farm business was not sufficient. Also if approved, a dwelling would on the site would create a ribbon of development.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the site. The boundaries of the site are currently defined by mature hedging. The site slopes upwards in an easterly direction. There are currently overhead lines located along the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site. The surrounding area is largely characterised by residential and agricultural uses.	
Description of Proposal The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	

Deferred Consideration:

This application was presented as a refusal to Planning Committee in Nov 2019 as inadequate evidence was submitted to prove an active and established farm business under criteria (a) of CTY10.

It was subsequently deferred for an office meeting with the Area Planning Manager and a meeting was held on 14/11/19. The agent stated in the meeting this application was not relying on a horse case for the farming criteria. The applicant was asked to forward details to support a farm business case in line with CTY10. No Farm Bus ID has been provided so it is up to the applicant to demonstrate the farm business has been active and established for at least 6 years. In Jan 2020 the agent forwarded receipts for bales of hay produced, dated 2015- 2019. These transactions are limited and appear occasional, one has been submitted for each of years 2015 to 2019. The occasional sale of it would not constitute an active and established farm business in the sense of CTY10.

The agent submitted an appeal decision 2018/A0194 to try and support their case. The appeal states "criteria (a) is not whether the applicant is an active farmer but whether the farm business is active and established". The evidence submitted shows there has been some level of agricultural activity for the last 6 years but this doesn't not prove a farm business. The appeal goes on the state the land is leased, and the landowner and farmer share responsibility, which was accepted by the PAC. This lease in itself shows there is a business agreement on the farmland, which is not the case with the current application and therefore is not directly comparable in establishing a farm business case.

For information there is a current application for a 'stable to house a pony' within the same red line of the site, which is still under consideration.

In relation to CTY8, ribbon development, it states that planning permission will be refused for a building which creates or adds to a ribbon of development. In this case, No.40, 42 and 44 front on the road, with 40a and 42a set back. If a dwelling were approved here, it could create a ribbon of development along with the dwellings and No.42 and 44, and would therefore be contrary to policy as it does not meet the exception test.

This site acts as an important visual break in the countryside and should be protected. Those dwellings down Naval Lane cannot be viewed with the site due to strong boundary vegetation and their location on the laneway. It would not be considered a rural cluster of development.

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

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

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

As the proposal does not meet the policy requirements of PPS21, Refusal is recommended for the following reasons;

<p>Refusal Reasons</p> <ol style="list-style-type: none">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 farm business has been established and active for at least 6 years.2. The proposal is contrary to Policy CTY8 of PPS21 in that the proposal, would if permitted, result in the creation of ribbon development along Moyagoney Road.
<p>Signature(s):</p>
<p>Date</p>



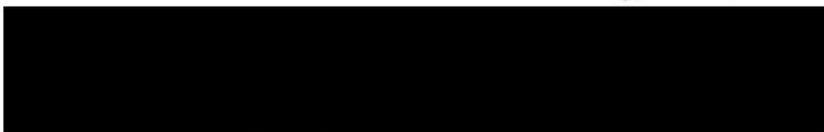
Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/0787/O	Target Date:
Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm)	Location: 40m South West of 44 Moyagoney Road Portglenone
Referral Route: Proposal does not comply with criterion (a) of Policy CTY10 of PPS21 – Sustainable Development in the Countryside.	
Recommendation:	
Applicant Name and Address: Mr Paul Madden 44 Moyagoney Road Portglenone	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

For the committee decision



24/10/19

Case Officer Report

Site Location Plan



Consultations:

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

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 does not comply with criterion (a) of Policy CTY10 of PPS21 – Sustainable Development in the Countryside.

Characteristics of the Site and Area

The site is situated within the open countryside and there are no further designations on the site as designated by the Magherafelt Area Plan 2015. The site is situated 40m SW of 44 Moyagoney Road, Portglenone. The site is currently used as an agricultural field. There is currently an agricultural gate on the western boundary which allows access onto the site. The boundaries of the site are currently defined by mature hedging. The site slopes upwards in an easterly direction. There are currently overhead lines located along

the western boundary and associated poles. There are agricultural buildings and a farm house located to the north of the site.

The surrounding area is largely characterised by residential and agricultural uses.

Description of Proposal

The applicant seeks outline planning approval for a dwelling and garage based on policy CTY10 (Dwelling on a farm)

Planning Assessment of Policy and Other Material Considerations

Planning History

There is currently a live application on the site (application reference number LA09/2017/0844) for a stable on the site which is a deferred application.

Neighbour Notification

Two neighbours were notified of this planning application including nos. 42a and 44 Moyagoney Road, Portglenone.

No letters of objection / representation have been received at time of writing this report.

Development Plan and Key Policy Consideration

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

Magherafelt Area Plan 2015: The site is located in the open countryside and there are no further designations on the site.

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this, the Draft Plan cannot be given any determining weight at this time.

PPS3: Access, Movement and Parking (Revised 2005) and PPS3 (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. Policies CTY1, CTY10, CTY13 and CTY14 are applicable.

Policy CTY1 of PPS21 states that planning permission will be granted for a dwelling on a farm in accordance with Policy CTY10.

Policy CTY10 states that planning permission will be granted for a dwelling house on a farm where all of the criteria below can be met. Policy CTY10 also states that for a dwelling by those involved in the keeping and breeding of horses for commercial purposes will be assessed under the same criteria:

(a) The farm business is currently active and has been established for at least 6 years.

This is normally assessed by the applicant providing a farm business ID number and consultation with DAERA. No ID number was provided in this case. Paragraph 5.43 of the Justification and Amplification of CTY10 states that an equine business is to be afforded the same benefits as an established and active farm, which is relevant to this application as the applicant keeps horses. Such businesses will include horse breeding and training and the operating of livery yards, trekking centres and riding schools. Applicants will have to provide sufficient information to demonstrate a level of involvement commensurate with commercial activity over the requisite period of 6 years. Such information should include:

- a statement of commercial rateable history for the business;
- copies of appropriate insurances;
- copies of 'Horse Passports' (if applicable); and
- any other information considered relevant to the particular case.

Paragraph 5.44 of CTY10 goes on to explain that those keeping horses and / or ponies for hobby purposes will not satisfy the requirements of this policy.

It is clear from the information submitted with this application that the applicant does not have an active and established equine business as none of the information required as per paragraph 5.44 was submitted. The application does not comply with criterion (a) of CTY10 as inadequate information was submitted.

(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. There have been no sell offs within the last 10 years of this application, therefore the application complies with criterion (b) of CTY10.

(c) The new building is visually linked with or sited to cluster with an established group of buildings on the farm where practicable. The associated agricultural buildings with this application are situated to the north west of the site and a dwelling on the proposed site would be visually linked with the farm buildings. The application complies with criterion (c) of CTY10.

Policy CTY 13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore no design details has been submitted however I am of the opinion that an appropriately designed dwelling will not appear prominent in the landscape. I am of the opinion that as much of the existing landscaping should be retained as much as possible with additional landscaping to further aid integration, therefore a landscaping plan will be required in any 'Reserved Matters' application.

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 an appropriately designed dwelling will not appear prominent in the landscape wherein it will be able 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.

Neighbour Notification Checked	Yes
Summary of Recommendation: Refusal	
Refusal Reasons 1. Proposal does not comply with criteria (a) of Policy CTY10 of PPS21 - Sustainable Development in the Countryside, as inadequate information was provided.	
Signature(s) Date:	

ANNEX	
Date Valid	10th June 2019
Date First Advertised	27th June 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
<p>The Owner/Occupier, 42a ,Moyagoney Road,Portglenone,Londonderry,BT44 8JG</p> <p>The Owner/Occupier, 44 Moyagoney Road,Portglenone,Londonderry,BT44 8JG</p>	
Date of Last Neighbour Notification	24th June 2019
Date of EIA Determination	
ES Requested	No
Planning History	
<p>Ref ID: LA09/2017/0844/F Proposal: Stable to house pony Address: 44 Moyagoney Road, Clady, Portglenone, Decision: DEF Decision Date:</p> <p>Ref ID: LA09/2019/0787/O Proposal: Proposed site for a dwelling and garage based on policy CTY10 (Dwelling on a farm) Address: 40m South West of 44 Moyagoney Road, Portglenone, Decision: Decision Date:</p> <p>Ref ID: H/1992/0458 Proposal: BUNGALOW Address: NAVAL LANE PORTGLENONE Decision: Decision Date:</p>	

Ref ID: H/2002/0426/F
Proposal: Bungalow & Detached Garage.
Address: Adjacent to No.8 Naval Lane, Portglenone.
Decision:
Decision Date: 22.07.2002

Ref ID: H/1991/0398
Proposal: SITE OF DWELLING
Address: ADJ TO 8 NAVAL LANE PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1997/4026
Proposal: RENOVATIONS TO DWELLING (DISABLED)
Address: 2 NAVAL LANE PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1976/0188
Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW
Address: 2 NAVAL LANE, TYANEE, PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1992/0617
Proposal: SITE OF DWELLING
Address: R/O 44 MOYAGNEY RD PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1997/0007
Proposal: TWO STOREY KITCHEN, UTILITY AREA WITH BEDROOM AND
BATHROOM FACILITIES
Address: 44 MOYAGONEY ROAD PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1982/0026
Proposal: ALTERATIONS AND ADDITIONS TO HOUSE
Address: 44 MOYAGONEY ROAD, PORTGLENONE
Decision:
Decision Date:

Ref ID: H/1989/0393

Proposal: DOUBLE GARAGE AND STORE AND UTILITY ROOM

Address: 44 MOYAGONEY ROAD CLADY PORTGLENONE

Decision:

Decision Date:

Ref ID: H/2010/0494/F

Proposal: Proposed 1.5 Storey Infill Dwelling and Garage

Address: Adjacent to 42 Moyagoney Road, Portglenone, Co.Antrim,

Decision:

Decision Date: 24.02.2011

Ref ID: H/1977/0157

Proposal: BUNGALOW WITH GARAGE

Address: TYANEE, 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:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2019/1305/F	Target Date: <add date>
Proposal: 8 No. two storey apartments within 2 blocks (additional parking added - 12 spaces instead of 8)	Location: 63 Thomas Street Dungannon
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Summary of Issues: <p>The objections were received in two waves, the first 10 objections raised the following;</p> <ul style="list-style-type: none">- Loss of privacy, overlooking- Out of character with the area- Additional traffic congestion on Castlefields- Overdevelopment of site- Lack of open space- Refuge collection point- Inadequate parking- Lack of integration- Red line incorporating part of Castlefields road outside of the natural boundary- The P.A.P on to Castlefields- Lack of proper boundary along Castlefields <p>- in turn leading to increased noise, - residents using Castlefields as through road etc parking</p> <p>After numerous amended drawings the new scheme the neighbours were re-notified and a further 7 objections were received, these letters raised some of the previous concerns but additionally;</p> <ul style="list-style-type: none">- Lack of on site parking, reduction to 8 spaces not adequate.	

- Further increase in railings and extend area covered
- Waste water treatment plant concerns e.g maintenance smells..

No further comments have been received to the notification in relation to the amended plans showing additional car parking provided on site.

Summary of Consultee Responses:

DFI Roads – conditions provided to ensure safe access

NI Water – no capacity in Dungannon WWTW

Mid Ulster Council EHO – advise conditions to ensure WWTW does not cause odours

Characteristics of the Site and Area:

The site lies within the settlement limits and the town centre boundary of Dungannon, the small triangular south eastern corner lies within zoned housing land, it lies outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site sits between a multi use education centre to the north east and a line of residential buildings to the south west. The immediate dwelling to the south west is a mix use residential home and dental practice. At the time of site visit there were two buildings on the site, a two storey building towards the front of the site and a smaller single storey building toward the rear which is currently disused but was previously a doctors surgery. The larger building sits centrally o the site and has a large two storey front projection, it is finished in white dash and a tarred driveway. There is also a small low cropped hedgerow along the roadside. The single storey building to the rear is a mix of cream dash and red brick and sits gable ended to the road. There is also a small garage type building on the very rear corner of the site with two roller shutter doors. The land rises gradually from the roadside west to the east rear of the site.

Description of Proposal

The proposal seeks full planning permission for 8 No. two storey apartments within 2 blocks

Deferred Consideration:

This application was before the Planning Committee in January 2021 where it was deferred for a members site visit. The site visit was carried out on 23 June 2021 where members were able to see the site and the planned car parking and amenity space. Observation in relation to the amount of car parking being provided were relayed back to the agent and amended plans were submitted on 24 June 2021 showing 12 car parking spaces, an increase in 4 for the overall scheme. Neighbours were notified about these amended plans by letter dated 25 June 2021, there have been no comments received in relation to these amendments.



Members will be aware that Creating Places and the Department Parking Standards sets out sets out guidance in relation to the number of car parking spaces that may be required for new developments. This application proposes to have communal car parking for the 8no, 2 bedroom apartments. The guidance seeks to have 1.5 car parking spaces per unit where there is unassigned communal parking and as such this application is now fully meeting the guidance. The proposal still provides a good level of amenity space for the residents in communal areas.

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

As had already been concluded in the previous report to Committee, the proposed development meets with the published planning policies and the revised parking is now in full compliance with guidance for car parking. In light of the above it is my recommendation that planning permission is granted with the conditions as set out below attached.

Conditions/Reasons for Refusal:

- 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 waste water treatment plant shall be located as per Drawing Site Layout Rev 06B date stamped 24 JUN 2021 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

3. A maintenance programme for the waste water treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the waste water treatment plant, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

4. Within 4 weeks of a written request by Mid Ulster District Council, following odour complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of immissions from the plant.

Reason: To safeguard residential amenity.

5. Any works required to resolve odour issues shall be carried out by an approved operator. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To safeguard residential amenity.

6. Prior to commencement of the development hereby permitted, visibility splays of 2.0 metres by 60.0 metres at the junction of the proposed access with the public road, shall be provided in accordance with the approved drawing No. 6B bearing the date stamp 24 JUN 2021, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

7. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.6B dated 24 JUN 2021 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out prior to the occupation of any part of the dwelling.

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

8. A maintenance programme for the communal area of open space within the development, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out in perpetuity.

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

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. 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 Councils 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 Infrastructures 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.

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

Signature(s)

Date:



Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1305/F	Target Date:
Proposal: 8 No. two storey apartments within 2 blocks (amended drawings)	Location: 63 Thomas Street Dungannon
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Farasha Properties Ltd 34 Culrevog Road Dungannon	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Environmental Health Mid Ulster Council	Advice

Representations:

Letters of Support	None Received
Letters of Objection	17
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

The objections were received in two waves, the first 10 objections raised the following;

- Loss of privacy, overlooking
- Out of character with the area
- Additional traffic congestion on Castlefields
- Overdevelopment of site
- Lack of open space
- Refuge collection point
- Inadequate parking
- Lack of integration
- Red line incorporating part of Castlefields road outside of the natural boundary
- The P.A.P on to Castlefields
- Lack of proper boundary along Castlefields
- in turn leading to increased noise,
- residents using Castlefields as through road etc parking

After numerous amended drawings the new scheme the neighbours were re-notified and a further 7 objections were received, these letters raised some of the previous concerns but additionally;

- Lack of on site parking, reduction to 8 spaces not adequate.
- Further increase in railings and extend area covered
- Waste water treatment plant concerns e.g maintenance smells.

Characteristics of the Site and Area

The site lies within the settlement limits and the town centre boundary of Dungannon, the small triangular south eastern corner lies within zoned housing land, it lies outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site sits between a multi use education centre to the north east and a line of residential buildings to the south west. The immediate dwelling to the south west is a mix use residential home and dental practice. At the time of site visit there were two buildings on the site, a two storey building towards the front of the site and a smaller single storey building toward the rear which is currently disused but was previously a doctors surgery. The larger building sits centrally o the site and has a large two storey front projection, it is finished in white dash and a tarred driveway. There is also a small low cropped hedgerow along the roadside. The single storey building to the rear is a mix of cream dash and red brick and sits gable ended to the road. There is also a small garage type building on the very rear corner of the site with two roller shutter doors. The land rises gradually from the roadside west to the east rear of the site.



Description of Proposal

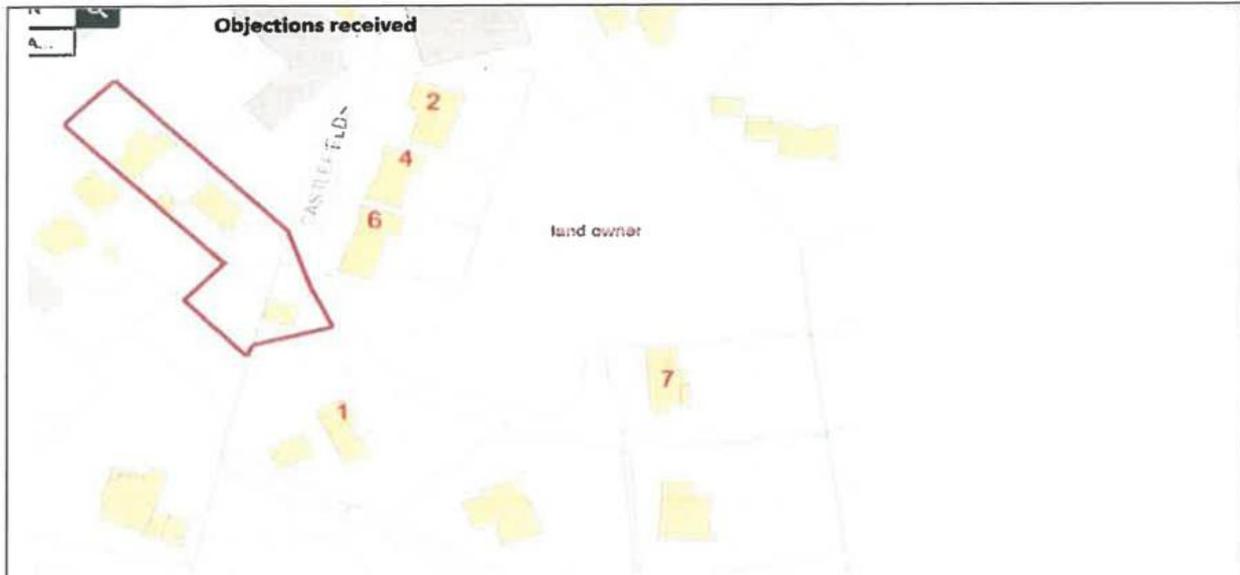
The proposal seeks full planning permission for 8 No. two storey apartments within 2 blocks



Planning Assessment of Policy and Other Material Considerations

Representations.

17 Objections have been received in total.
Numbers 1(x2), 2(x2), 4(x2), 6(x3), 7 Castlefields.
The owner of the land behind Castlefields (x2).
There were two other objections giving their address as Castlefields Only.
There were 3 objections from 71 The Grange.



Objectors concerns;

The objections were received in two waves, the first 10 objections raised the following;

- Loss of privacy, overlooking
- Out of character with the area
- Additional traffic congestion on Castlefields
- Overdevelopment of site
- Lack of open space
- Refuge collection point
- Inadequate parking
- Lack of integration
- Red line incorporating part of Castlefields road outside of the natural boundary
- The P.A.P on to Castlefields
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After numerous amended drawings the new scheme the neighbours were re-notified and a further 7 objections were received, these letters raised some of the previous concerns but additionally;

- Lack of onsite parking, reduction to 8 spaces not adequate.
- Further increase in railings and extend area covered
- Waste water treatment plant concerns e.g maintenance smells.

Consideration of objections.

-With regards overlooking, loss of privacy issues, - an amended scheme has been received with a lower ridge height, also the apartments have been orientated and designed so as to only have small narrow bedroom window overlooking Castlefields at first floor level. In addition the applicant has proposed a higher boundary along the rear to ease overlooking fears.

-With regards to the character of the area, the site lies within the TCB and many other examples of apartments are evident. I also feel that in this case the blocks of 4 apartments have been styled and designed so as to appear similar to the large detached properties along Thomas St.

-With regards to the objectors concerns relating to additional traffic on Castlefields, the applicant has an existing right of way onto Castlefields which they have chosen to keep closed up to avoid any outflow

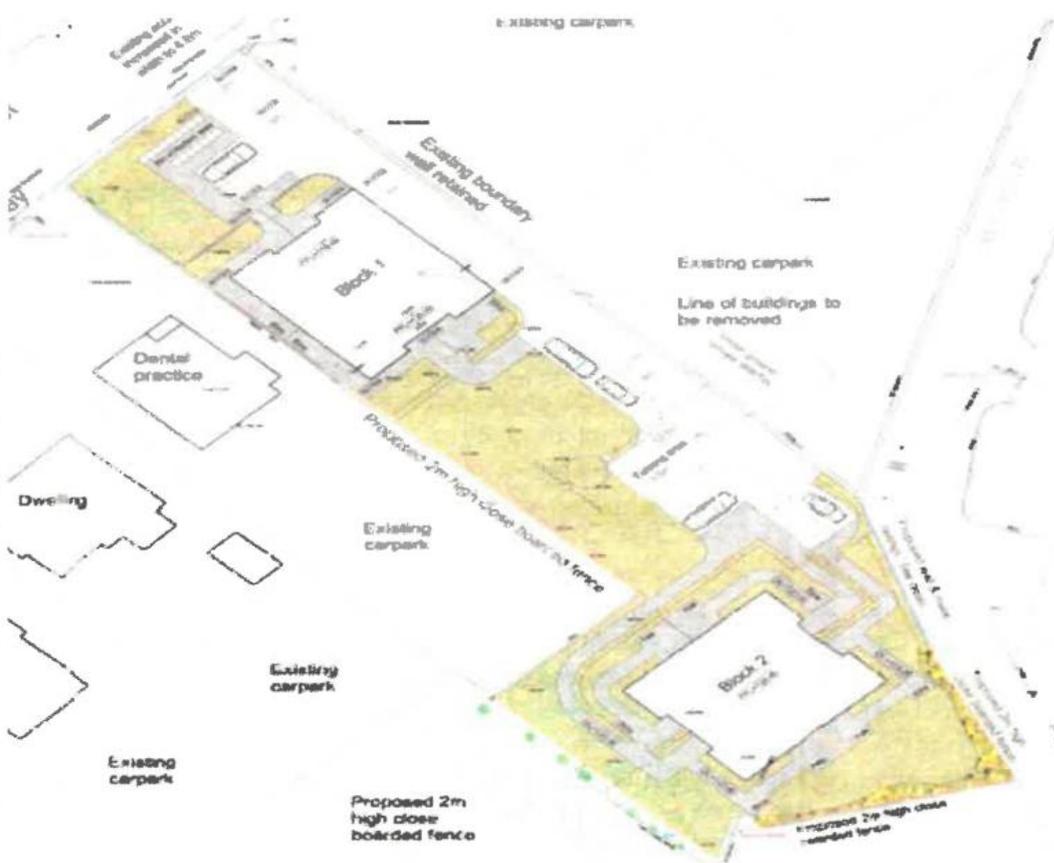
onto that small development. Furthermore since receiving the objections they have closed up the pedestrian access point and increase the boundary at the rear from 1.2 metres to 2 metres to further discourage anyone from hopping over that wall as per the concerns, in addition after the most recent meeting with the objectors, it was agreed to increase the 2 metre railing around the side boundary as well to further deter this movement.

-With regards to overdevelopment of the site, lack of open space and parking. The most recent layout has redone the parking to allow for a greater area of open space which meets the current required standards, including individual areas per apartment, as well as this DFI roads have been consulted and have no objections to the new scheme.

-With regards to the concerns over the bin collection point in close proximity to the houses at Castlefield, the recent layout has shown this to be moved to the front of the site at the furthest point from the objectors.

-With regards to the lack of integration, boundary definition, red line queries and P.A.P. The applicant has proposed to remove the P.A.P and increase the rear east boundary to a 2 metre high wall with railings to ease any fears of through flow on foot. In addition the scheme also proposes to retain the exiting vegetation and erect a 2 metre high closed board fence along the south and west boundaries. The applicant also provided land registry maps to prove ownership of all the land within the red line, this appears to include a small portion of the private lane to the rear.

-And finally with regards to the WWTP, as Dungannon WWTP are at capacity, the applicant has proposed a high quality Vitra Oxcrete sewerage treatment plant and has submitted all details pertaining to it. The Environmental health Department were consulted with these details and had no objections. The WWTP also comes with a 24 hour breakdown service in the case of emergency. This proposal is a viable alternative when connection to the mains sewers is not available.



Most recent scheme above



Original scheme above.

History

LA09/2019/0811/PAD - Proposed apartments - 63 Thomas Street, Dungannon.

Assessment

The following policy documents will be considered in this assessment:

- Strategic Planning Policy Statement (SPPS)
- Dungannon and South Tyrone Area Plan 2010 (DSTAP)
- Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 7 ? Quality Residential Environments.
- Addendum to PPS 7 - Safeguarding the Character of Established Residential Area
- Planning Strategy for Rural NI
- DCAN 9 Residential and Nursing Homes
- Parking Standards

Strategic Planning Policy Statement (SPPS)

The SPPS has superseded PPS 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environments for the overall benefit of our society. Its guiding principle is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The site is in an area of archaeological importance. Historic Environment

Division (HED) have been consulted and have advised that the proposal will not have a negative impact on archaeology in the area. The proposal will not impact on any priority habitat or designated sites. The proposal will not impact on residential amenity by way of overlooking, loss of light or unacceptable noise levels.

Dungannon and South Tyrone Area Plan 2010

The site is within the development limits of Dungannon as defined in the DSTAP 2010 and is outside the defined Town Centre Boundary. It is not subject to any Area Plan Designations or Zonings. As such, existing planning policy should be applied.

Mid Ulster District Council Local Development Plan 2030 - Draft Plan Strategy

The Mid Ulster District Council Local Development Plan 2030 ? Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. However all valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan. It should be noted that the proposal does not raise any conflict with either of these policies. Policy GP1 - General Principles Planning Policy and Policy COY1 - Community Uses is applicable to this application

Planning Policy Statement 3 - Access, Movement and Parking

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the use of an existing unaltered access to a public road. DFI Roads have been consulted and have raised no concerns in relation to road safety or traffic flow.

Policy AMP 7 deals with Car Parking and Servicing Arrangements. It advises that development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Departments published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic. This site is not in an area of parking restraint and DFI Roads have not raised any concerns in relation to Parking. The TAF submitted with the application. 8 new spaces are being provided within the red line of the site which equates to over 1 space per unit which may be under the requirements. The original scheme provided 14 parking spaces, however, in order to accommodate a turning area for service vehicles a total of 6 spaces were dropped, however, it is my opinion that due to the town centre location, the availability of on street parking, existing car parks in the surrounding area as well as the style of development being apartments, a lower end of onsite parking standards can be accepted.

Planning Strategy for Rural NI (PSRNI)

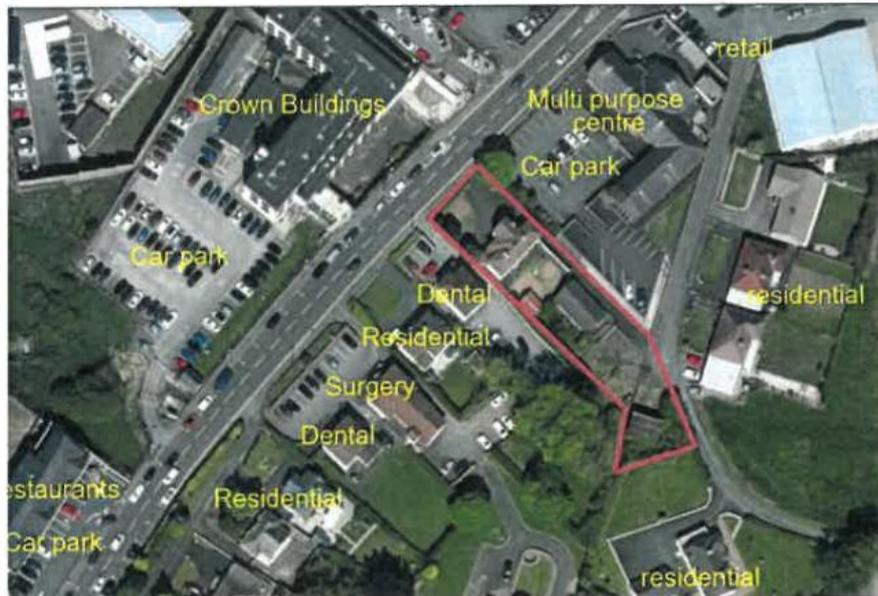
Policy DES 2 (Townscape) is relevant to this assessment. This proposal will not have a negative impact on the character of this area. It will not detract from any existing streetscape or architectural interest.

Planning policy Statement 7 - Quality residential Environments

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

a) The immediate surrounding area is a mix of residential, offices and retail, all the surrounding buildings are a mix of two and three storeys with community and local facilities available close by with a local convenience shop, playing fields, supermarket, and restaurants all within the close proximity, there is a dental practice, doctor surgery, multi purpose centre and crown buildings all within the immediate vicinity.

The principle of residential development is generally acceptable within the development limit of Dungannon and this proposal respects the use of the surrounding area which is largely residential. Whilst this development is apartment style its design of two blocks is such that it will respect the building line along Thomas street. In addition the proposed building (block 1) will replace an existing building of similar size.



b) There are no archaeological features in the immediate vicinity of the site.

c) Based on the site plan the applicant has submitted it is clear that there is adequate space to provide adequate private amenity space for each unit.

d) Given the nature, scale and location of the development, there is no requirement for public open space to be provided as part of this application, however, the proposal involves a generous green area between the two blocks. In this case the site is also located within the town centre and close to other areas ie leisure centre, hill of oneill, highway to health

e) The location of this site within the settlement limits of Dungannon supports walking and cycling and there is convenient access to public transport.

f) In the previous Pre Application Discussions (LA09/2019/0811/PAD) parking was discussed and the proposal is deemed acceptable in terms of parking and turning areas for service vehicles when considering the town centre location and surrounding availability of alternative car parking. Additionally it is not considered that the proposal will conflict with existing land uses.

g) The proposed building recognises the original characteristics of the area in terms of size, scale, form and materials. The critical elevation which is onto Thomas street incorporates the appearance of a two storey dwelling with windows with vertical emphasis, 2 number traditionally panelled doors, cream

rendered walls on the ground floor and a red brick first floor drawing from the best local traditions of the surrounding area.

h) I am content this proposal should not have a significant detrimental impact on the adjacent land uses. I am content there will be no impact on the neighbouring property at Castlefields to the rear, or to the properties along Thomas Street in terms of noise disturbance and loss of privacy as the existing boundary wall is being retained and enhanced with fence and railings. I am satisfied there will be no issues with overlooking, overshadowing or loss of privacy at the neighbouring properties as previously discussed in the consideration of objections.

i) There are no concerns regarding crime and personal safety with this proposal.

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

(a) This proposed development would increase the density of the development with the previous use, however, I would not have any concerns this would considerably alter the character of this established area.

(b) The pattern of development in the immediate area is a mix of large two and three storey buildings and I consider the type of building proposed, would not have an impact on the overall character and environmental quality of this area.

(c) the units are built to a size not less than those set out in Annex A

Other considerations

The site is not subject to flooding and neighbouring land use will not be detrimentally impacted. There are no land contamination or public health issues to consider. The building is not listed therefore LBC is not required.

Environmental Health have been consulted with regard to smells/fumes, refuse and litter and have raised no objections. Based on this I am satisfied that the proposal is adequately designed to avoid a significant adverse impact on neighbouring amenity.

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. The waste water treatment plant shall be located as per Drawing Site Layout Rev 06 date stamped 11th August 2020 and shall be installed and fully operational prior to the occupation of any dwellings hereby approved.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

3. An adequate maintenance programme for the waste water treatment plant, along with signed contract of those that will be responsible for its maintenance, shall be agreed in writing with Mid Ulster District Council prior to the occupation of any dwelling hereby approved. The agreed maintenance programme shall be carried out for the lifetime of the waste water treatment plant, unless otherwise agreed in writing with Mid Ulster District Council.

Reason: To safeguard public health and in the interest of safeguarding residential amenity.

4. Within 4 weeks of a written request by Mid Ulster District Council, following odour complaint from the occupant of a dwelling, which lawfully exists or has planning permission at the date of this consent, the operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of emissions from the plant.

Reason: To safeguard residential amenity.

5. Any works required to resolve odour issues shall be carried out by an approved operator. The works shall be completed within a reasonable timeframe to the agreement of Mid Ulster District Council on identification of a nuisance. On completion of the works, the operator shall provide details of a monitoring survey to Mid Ulster District Council for written approval.

Reason: To safeguard residential amenity.

6. Prior to commencement of the development hereby permitted, visibility splays of 2.0 metres by 60.0 metres at the junction of the proposed access with the public road, shall be provided in accordance with the approved drawing No. 6 bearing the date stamp 11 August 2020, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

7. All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.6A dated 25th November 2020 and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out prior to the occupation of any part of the dwelling.

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

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. 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 Councils 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 Infrastructures 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.

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

Signature(s)

Date:

ANNEX	
Date Valid	7th October 2019
Date First Advertised	22nd October 2019
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>Aileen McMorrow "Knocknarea", 4 Castlefields, Dungannon, BT71 6DZ The Owner/Occupier, 1 Castlefields Dungannon Tyrone Mary Watkins 1 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ . The Occupier 1 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ Veronica Knox 117 Drumnasoo Road, Portadown, BT62 4EX The Owner/Occupier, 2 Castlefields Dungannon Tyrone Charlotte McCaughan 2 Castlefields, Dungannon, Co Tyrone, BT71 6DZ Charlotte McCaughan 2 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ P Marshall 3 The Cairn, Bush Road, Dungannon, Co Tyrone, BT71 6QB P Marshall 3 The Cairn, Bush Road, Dungannon,BT71 6QB The Owner/Occupier, 4 Castlefields Dungannon Tyrone A McMorrow 4 Castlefields,Dungannon,BT71 6DZ The Owner/Occupier, 59 Thomas Street,Dungannon,Tyrone,BT70 1HW The Owner/Occupier, 6 Castlefields Dungannon Tyrone Mary McElroy 6 Castlefields, Dungannon, BT71 6DZ Mary McElroy 6 Castlefields, Dungannon, Tyrone, Northern Ireland, BT71 6DZ Mary McElroy 6 Castlefields,Dungannon,BT71 6DZ The Owner/Occupier, 61 Thomas Street,Dungannon,Tyrone,BT70 1HW The Owner/Occupier, 63 Thomas Street,Dungannon,Tyrone,BT70 1HW Steven White 7 Castlefields,Dungannon,BT71 6DZ</p>	

<p>Veronica Knox 71 The Grange,Lurgan,BT67 9BU Veronica Knox 71 The Grange,Lurgan,BT67 9BU D. Hanna Castlefield, Dungannon, BT71 6DZ D Hanna Castlefields,Dungannon,Co Tyrone,BT71 6DZ The Owner/Occupier, Crown Buildings Thomas Street Dungannon The Owner/Occupier, Crown Buildings,Thomas Street,Dungannon,Tyrone,BT70 1EN The Owner/Occupier, Multi Purpose Centre 65 Thomas Street Dungannon</p>	
Date of Last Neighbour Notification	18th November 2020
Date of EIA Determination	
ES Requested	No
Planning History	
<p>Ref ID: LA09/2019/0811/PAD Proposal: Proposed apartments Address: Thomas Street, Dungannon, Decision: Decision Date:</p>	
<p>Ref ID: LA09/2019/1305/F Proposal: 8No. two storey apartments within 2 blocks Address: 63 Thomas Street, Dungannon, Decision: Decision Date:</p>	
<p>Ref ID: M/1976/0435 Proposal: MULTI-PURPOSE EDUCATION CENTRE Address: DRUNGLASS PRIMARY SCHOOL, THOMAS STREET, DUNGANNON Decision: Decision Date:</p>	
<p>Ref ID: M/1991/6043 Proposal: Bank Thomas Street Address: Thomas Street Decision: Decision Date:</p>	
<p>Ref ID: M/2000/0541/F Proposal: Conversion and extension of dwelling to create dental surgery with provision of car parking</p>	

Address: 61 Thomas Street Dungannon
 Decision:
 Decision Date: 17.01.2001

Ref ID: M/2000/1314/F
 Proposal: Erection of replacement dwelling.
 Address: 1 Castlefields, Dungannon.
 Decision:
 Decision Date: 04.09.2001

Ref ID: M/1978/0781
 Proposal: REPLACEMENT (MOBILE) WAITING-ROOM AND RECEPTION FOR SURGERY
 Address: 63 THOMAS STREET, DUNGANNON
 Decision:
 Decision Date:

Ref ID: M/1976/043503
 Proposal: CHANGE OF USE TO MULTI PURPOSE EDUCATION CENTRE
 Address: DRUMGLASS PRIMARY SCHOOL THOMAS STREET, DUNGANNON
 Decision:
 Decision Date:

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: Site Layout or Block Plan
 Status: Submitted

Drawing No. 04
 Type: Proposed Plans
 Status: Submitted

Drawing No. 05
 Type: Proposed Plans
 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: LA09/2019/1432/O	Target Date:
Proposal: Proposed site for dwelling and domestic garage. Based on Policy CTY10 (Dwelling on a farm)	Location: Approx 100m North-West of No84 Loup Road Moneymore
Applicant Name and Address: Mr Michael O'Boyle 97b Loup Road Moneymore BT45 7st	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Characteristics of the Site and Area: <p>This application relates to an outline permission for the provision of a farm dwelling located on farm lands approximately 100 northwest of No 84 Loup Road, Moneymore. The site is situated outside any designated zonings or settlement limits. The area is classified as open countryside as defined within the Magherafelt Area Plan 2015.</p> <p>The site comprises the top northeast corner of a grass field. The field is identified as No 9 on the DEARA farm map. The fields topography raises in a steep elevation from the Moneymore Road towards the site in northerly direction. The northeast boundary consists of various indigenous hedgerow species with a good mixture of semi-mature trees. The eastern boundary abuts an adjacent laneway that defines the eastern boundary. The northern boundary is defined by intermittent tress with hedgerow supported with post and wire fencing. The west and south boundaries are undefined.</p> <p>The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.</p>	



Description of Proposal

The applicant is seeking outline planning for a farm dwelling.

Deferred Consideration:

The application was presented to August 2020 Planning Committee for the following reasons;

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.

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

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 that the impact of ancillary works would damage rural character.

It was subsequently deferred for a virtual meeting with the Area Planning Manager which was held on 13th August 2020.

Following the deferral of the application a site visit was carried out by a senior officer to carry out a re-assessment.

DEARA have confirmed the farm is active and established and no development opportunities have been sold off, the issue with CTY10 related only to criteria c. The two

structures measuring approx. 3m in width and depth by 3m in height located within the vicinity of the site cannot be relied on as 'farm buildings' to group with. The structures appeared to have been constructed of timber frames with corrugated sheeting and there was no evidence of these structures being permanently secured to the ground or having any planning permission. (see image below). The structures do not represent permanent buildings on the farm and therefore cannot be taken for the purposes of CTY10 to justify the site.



Structures on site

The main farm house at 97 Loup Road, is located within the development limits of the Loup with no other buildings surrounding it. There are no other farm buildings on the submitted farm maps within the countryside, except for the structures mentioned above.



Applicants house

Therefore this site would be regarded as an exception to CTY10 because there are no farm buildings to visually link or cluster with. An existing access is to be used and an existing field pattern is being followed, preventing any suburban style of development. The agent mentioned at the office meeting 3 trees which would aid with integration of a dwelling on the site. These were viewed on the site visit and when on Loup Road looking up at the elevated site, a dwelling with a ridge height of 5.7m, along with the retention of the existing trees, would provide a suitable degree of integration for a dwelling of this

height. A block plan has been submitted showing the existing trees on the site and will they be conditioned to be retained as such.



An Approval is therefore recommended with conditions.

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. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements 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.

5. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the Commencement of the development.

Reason: In the interests of visual amenity.

6. The trees as indicated on plan 02 date stamped 9 August 2021 should be permanently retained as shown.

Reason - In the interests of visual amenity.

7. The proposed dwelling shall have a ridge height of less than 5.7m metres above finished floor level.

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

8. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

Signature(s):

Date



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2019/1432/O	Target Date:
Proposal: Proposed site for dwelling and domestic garage. Based on Policy CTY10 (Dwelling on a farm)	Location: Approx 100m North-West of No84 Loup Road Moneymore
Referral Route: Proposal fails to comply with criteria c contained within Policy CTY 10 and CTY 13, CTY 14 of PPS 21. No third party representations received and all other material considerations have been taken into consideration.	
Recommendation:	
Applicant Name and Address: Mr Michael O'Boyle 97b Loup Road Moneymore BT45 7st	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	

FOR committee



13/5/20

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	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 third party representations received and all other material considerations have been taken into consideration.

Characteristics of the Site and Area

This application relates to an outline permission for the provision of a farm dwelling located on farm lands approximately 100 northwest of No 84 Loup Road, Moneymore. The site is situated outside any designated zonings or settlement limits. The area is classified as open countryside as defined within the Magherafelt Area Plan 2015. The site comprises the top northeast corner of a grass field. The field is identified as No 9 on the DEARA farm map. The field's topography raises in a steep elevation from the Moneymore Road towards the site in northerly direction. The northeast boundary consists of various indigenous hedgerow species with a good mixture of semi-mature trees. The eastern boundary abuts an adjacent laneway that defines the eastern

boundary. The northern boundary is defined by intermittent trees with hedgerow supported with post and wire fencing. The west and south boundaries are undefined.

Located approximately 30m to the northeast of the site is a small paddock which is heavily screened with thick vegetation. I observed two structures measuring approx. 3m in width and depth by 3m in height located within this small area. The structures appeared to have been constructed of timber and corrugated sheeting. I did not see any evidence of these structures being permanently secured to the ground. I noted one of the structures was laying on its roof and the other was laying on its side I could not see any evidence of foundations or hard-standing (floor) around the area or the vicinity of the two structures.

Characteristics of the site and area.

The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

Description of Proposal

The applicant is seeking outline planning for a farm dwelling.

No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves the construction of a new access to a public road and therefore DFI Roads were consulted in the processing of the application.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on www.planningni.gov.uk.

Relevant Site History:

MUDC records indicate no planning history relating to this site.

Constraints:

DFI: Roads no objection apply standard conditions;
DAERA confirmation of an active farm business;
NIW: No objections standard Informatives

Representations.

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing no objections or representations were received. This application was initially advertised in the local press on w/c 11th November 2019 (publication 12th November 2019. Four (4) neighbouring properties were notified on 7 November 2019; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

EIA Determination.

The Planning (Environmental Impact Assessment) Regulations (Northern Ireland) 2015; the proposal has been considered and does not fit within any categories or threshold identified in Schedule 2 of Environment Impact Assessment.

HRA Determination - (Natural Habitats, etc.) (Amendment) Regulations (Northern Ireland) 2015, there is no watercourse directly abutting this site, therefore it is unlikely that there will be any adverse effects from development works on integrity of any National or European site or any water stream by way of a hydrological link to the site. Checks carried out indicate there is no flooding issues on this site.

Planning Assessment of Policy and Other Material Considerations

Section 45 (1) of the Planning Act (Northern Ireland) 2011 requires regard to be had to the Development Plan, so far as material to the application and to any other material considerations. Section 6 (4) states that the determination must be made in accordance with the Plan unless material considerations indicate otherwise. The Magherafelt Area Plan 2015 does not contain provided by PPS 21 and the SPPS.

1. Magherafelt Area Plan 2015.
2. Strategic Planning Policy Statement (SPPS).
3. PPS 3 Planning Policy Statement 3 Access, Movement and Parking. (DCAN 15)
4. PPS 21 - Sustainable Development in the Countryside.
5. Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside

The Magherafelt Area Plan 2015 (MAP) operates as the statutory local development plan for the area the site lies in. The Magherafelt Area Plan 2015 does not contain any specific policies relevant to the application. The principal planning policies are therefore provided by PPS 21 and the SPPS.

The Mid Ulster District Council Local Development Plan 2030- Draft Plan Strategy was launched on the 22nd Feb 2019. The initial consultation period has recently ended giving rise to a number of objections to Policies contained in the Plan. In light of this the Draft Plan cannot be given any determining weight at this time.

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 Councils 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.

Assessment**PPS 21**

Policy CTY 1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years.
- (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.

(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).
-

In addition to the criteria above, applications of this nature must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 and CTY 16 of PPS 21.

With respect to (a) it is considered that this policy criteria is met as the applicant has provided an Agricultural Business Identification number and claims Single Farm Payments. DAERA have been consulted and have confirmed that the farm business has been in existence and active for a period of more than 6 years established (11/03/2008). I am content that the consultation response from DAERA, coupled with observations made on-site and evidence demonstrates the farm is actively farm business.

With regard to (b) there are no records indicating that any 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.

In terms of criteria (c) it is clear from my observations made from my site visit that there were no existing farm buildings with the exception of two temporary mobile structures. The small shelter temporary structures constructed from timber frame corrugated roof and sides are in my opinion do not have a great visual presence on the site either to be counted as buildings to be linked or clustered with in line with relevant policy CTY 10 criteria c.



Fig.1 temporary structures constructed of timber and corrugated sheeting

Therefore this category c has not been complied with.

The proposal for a farm dwelling must also demonstrate that they meet the policy requirements of policies CTY 13, CTY 14 Policy.

CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposal fails both CTY 13 and CTY 14 given the steep topography of the site a new dwelling with a modest ridge height of 5m would become a prominent feature and would adversely impact on the local landscape. I am also not persuaded the proposed dwelling would benefit from any additional landscaping thereby aiding to restrict the level of prominence including the level of associated impact on the surrounding landscape.

In terms of Policy CTY14 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.

In terms of the associated ancillary works involved to construct the new access I have concerns over the degree of land manipulation that will be required to facilitate this development.

Access Consideration.

DFI Roads were consulted on 05/11/2019 on this application and responded with no objections subject to standard condition namely the vehicular access, including visibility splays of 2.4m x 90m in both directions

Recommendation.

I recommend refusal on the grounds that the site is not visually linked to an existing farm group of buildings and given the steep topography a dwelling would, if permitted, adversely impact on the rural character of the surrounding area. That said, given that the applicant's extensive farm holding it would be worth exploring other alternative sites.

Contrary to CTY1, CTY10, CTY13, CTY14

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

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

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 that the impact of ancillary works would damage rural character.

Signature(s)



Date: 29.4.2022.

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ANNEX	
Date Valid	31st October 2019
Date First Advertised	12th November 2019
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 79 Loup Road, Moneymore, Londonderry, BT45 7ST The Owner/Occupier, 82 Loup Road Moneymore Londonderry The Owner/Occupier, 84 Loup Road Moneymore Londonderry The Owner/Occupier, 86 Loup Road Moneymore Londonderry	
Date of Last Neighbour Notification	7th November 2019
Date of EIA Determination	
ES Requested	Yes /No
Planning History Ref ID: LA09/2019/1432/O Proposal: Proposed site for dwelling and domestic garage. Based on Policy CTY10 (Dwelling on a farm) Address: Approx. 100m North-West of No84 Loup Road Moneymore, Decision: Decision Date:	
Summary of Consultee Responses	
Drawing Numbers and Title	

Drawing No.
Type:
Status: Submitted

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

Notification to Department (if relevant)

Date of Notification to Department:
Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0452/F	Target Date: <add date>
Proposal: Replacement of Dwelling with New Dwelling and Garages (amended description)	Location: 20 Reaskcor Road Dungannon
Applicant Name and Address: Mr & Mrs G Burrows 51 Terrenew Road Dungannon BT70 3AB	Agent Name and Address: ACA Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh BT78 5EJ
Summary of Issues: <p>The application seeks permission for a replacement dwelling and garage. The building to be replaced exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact as per the requirements of PPS 21 CTY3. The proposed replacement dwelling is not sited within the established curtilage of the existing building and the application seeks to retain the existing building as an agricultural store. There are concerns and a number of objections have been received which specifically relate to the retention of the existing building as an agricultural store given the recent renovations and high standard of finishes to the existing subject building. However, overall it is considered the proposal complies with the relevant, prevailing planning policy. 13No. objections have been received and are considered below.</p>	
Summary of Consultee Responses: DFI Roads - close existing access, new access to have 2.4m x 45.0m sight lines NIEA – NED has no concerns and provides advice Historic Environment Division - does not consider that the proposed development will have any adverse impacts upon the settings of the historic monuments and designed landscape assets	

Characteristics of the Site and Area:

The application site comprises an existing two storey roadside dwelling with a farm holding comprising a number of farm buildings to the rear; a small triangular roadside field; and a portion of a large field which has a mixture of topsoil and an area of hardstanding/rubble. The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010. The surrounding context is largely rural with agricultural land predominantly surrounding the site. However, the site is located immediately outside and adjacent to the settlement limits of Castlecaufield. The settlement of Castlecaufield is to the NE and encompasses the agricultural field adjacent to the red line. The land within the red line is relatively flat however the ground level inclines significantly when travelling in a south-westerly direction along Reaskor Road, therefore the proposal site is on elevated land when compared to the ground level of the adjacent Parkanaur Road.

The two-storey replacement opportunity subject to this application site is in good condition and appears to have underwent recent interior and exterior renovations. There has been recent front kerbing and evidence of a rear garden wall under construction providing a boundary between the farm holding and the existing building. The existing dwelling and farmyard are currently accessed via an existing access to the southern corner of the site, whilst the proposed access to the dwelling does not appear to be formalised however it was noted on the date of the site inspection that the boundary treatment to the northeast may have recently been removed. The south and east boundaries are defined by existing vegetation with the remaining boundaries relatively undefined. The existing farm buildings and partial hedging will provide some screening of the proposal site when travelling north-easterly on Reaskor Road. Public views will be more open when travelling south-westerly on Reaskor Road and also when travelling on the Terrenow Road and Parkanaur Road, particularly in a south-westerly direction.

Description of Proposal

This application seeks full planning permission for an offsite replacement dwelling with garage. It is proposed to demolish the existing dwelling.

Deferred Consideration:

This application was before the Planning Committee on 12 April 2021 and was deferred to allow the Planning Manager to meet, separately, with the applicant and the objectors. These meetings were held virtually on 22 April 2021

The objectors reiterated the issues that have already been discussed in the previous report and did not provide any information to demonstrate there would be any harm to them if the application was approved, concerns were in relation to the proposal not meeting the policy for replacement dwellings and that in other cases where replacement dwellings were proposed these were required to be demolished.

The applicants advised they have a large dairy farm nearby and are unable to get a site on it. They bought this land and removed some of the buildings on the site as they were in a poor state of repair. They propose to site away from an approved and under construction pig unit, which is on the opposite side of Reaskor Road from the existing dwelling, it is not in their ownership.

Following the meetings on 22 April 2021 the scheme was amended to include demolition of the existing dwelling. Neighbours were notified about this change on 14 July 2021 and it was advertised in the newspapers on 20 and 22 July 2021. There have been no further representations to the application.

Members are advised that Policy CTY3 for Replacement Dwellings seeks that any replacement dwelling should be in the curtilage of the existing dwelling unless the curtilage is too restrictive or there are other benefits to having it sited away. The applicants have advised the existing house is sited in close proximity to an approved and under construction pig unit. See Photo A below, pig unit in green, existing dwelling in blue and proposed site in red (behind the existing buildings)



Photo A – Reaskcor Road from North

The applicants are asking to be sited on the other side of their buildings to provide some degree of separation from the pig unit. I would agree that this will improve the situation for them especially as they are on the SW side of the pig unit and the prevailing winds are usually from this direction which will generally move odours to the NE. While this will not completely resolve any possible issues, it is likely to provide some benefits for the applicants. Members will be aware of the other objections received to this application, these have already been discussed in the previous report, however it should be noted the applicants have agreed to remove the existing dwelling. The proposed dwelling is 1 ½ storeys with a ridge height of 7.5m above the finished floor level and dormer windows projecting from the wall plate, this replaces a full 2 storey dwelling which has a ridge height of 8m above the adjoining lands. In my opinion the removal of the existing dwelling will reduce the visual impact of the overall scheme as the existing dwelling is prominent and on the skyline in views from Castlecaulfield. I consider the proposed dwelling, while larger in its massing, will have less visual impact as it has mature trees to the rear, the ridge height is approx. 0.8m below the height of the existing dwelling and it is sited to the

rear of the existing agricultural building which all aid its integration into the landscape– see Photo B below.



Photo B – View from Castlecaulfield - site identified in red in front of the trees, existing dwelling to left hand side with new pig shed under construction.

Other views of the site from the local area, except on approaches on Reaskcor Road are limited. The dwelling will be sited behind the existing vegetation on the south boundary which will screen it in views from the south west, See Photo C below.



Photo C – View from Terreneu Road to SW

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft

Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

Taking into account all the information above, I would advise members that in my view the proposed dwelling sited here will provide amenity benefits to the applicant and with the removal of the existing dwelling and retention of the existing vegetation and buildings, will result in the removal of the dwelling from the skyline and better integration into the landscape. I recommend this application is approved with the conditions set out below.

Conditions/Reasons for Refusal:

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 existing dwelling, coloured green on the approved drawing No 01Rev1 bearing the date stamped 28 JUN 2021, shall be demolished within 6 weeks of the date of the occupation of the dwelling hereby approved.

Reason: In the interests of visual amenity.

3. The existing access annotated 'EXISTING ACCESS TO BE PERMANENTLY CLOSED UP' on Drawing No. 02 Rev 3 bearing the date stamp 128 JUN 2021 shall be permanently closed and the verge properly reinstated to DfI Roads satisfaction, within 6 weeks of the occupation of the dwelling hereby approved.

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

4. The vehicular access, including visibility splays of 2.4 x 45m in both directions, shall be provided in accordance with Drawing No. 02 Rev 3 bearing the date stamp 28 JUN 2021 prior to the commencement of any other 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 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.

5. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, the access gradient shall be between 4% (1 in 25) maximum and 2.5% (1 in 40) minimum and shall be formed so that there is no abrupt change of slope along the footway.

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

6. The gradients and levels of the site, and, the finished floor levels of the development hereby permitted shall be as shown on drawing No 02 Rev 3 bearing the date stamp received 28 JUN 2021, unless otherwise agreed in writing by Council.

Reason: To ensure the development integrates into the surroundings.

7. The existing mature trees and vegetation along the southern boundary of the site, as identified in yellow on drawing No 01 Rev 1 bearing the stamp dated 28 JUN 2021, 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. The scheme as agreed shall be carried out within the next available planting season.

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

8. The existing buildings hatched and annotated 'EXISTING BUILDINGS TO BE RETAINED' on drawing no 02Rev3 bearing the stamp dated 28 JUN 2021 shall be permanently retained.

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

All proposed planting as indicated on approved Drawing No. 02 Rev 3 date stamped 28 JUN 2021 shall be carried out in the first available planting season following the occupation of the dwelling hereby approved and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

9. The curtilage of the dwelling hereby approved shall not extend outside the area enclosed by the new hedging as identified in the legend as 'Proposed hedge planting as scheduled on drawing No 02 Rev 3, bearing the stamp dated 28 JUN 2021.

Reason: In the interests of visual amenity and to control the number of new buildings in the countryside.

Informatives

1. 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 Mid Ulster District Council or other statutory authority.
2. 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 Infrastructure for which separate permissions and arrangements are required.
3. 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 NI drainage system.

4. Notwithstanding the terms and conditions of the Mid Ulster District 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 DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.
5. 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*);
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.
6. If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
7. 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;
or
 - e) To damage or destroy a breeding site or resting place of such an animal.
8. 8. If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
9. 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 or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).

- 10.** The applicant's attention is drawn to the HED document Guidance on Setting and the Historic Environment, which provides advice on the analysis of the settings of heritage assets in Northern Ireland, and how the potential effects of development proposals may be assessed.

Signature(s)

Date:



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0452/F	Target Date: 15/07/20
Proposal: Replacement of Dwelling with New Dwelling and Garages (existing dwelling retained as agricultural store)	Location: 20 Reaskcor Road Dungannon
Referral Route: 13no. Objection letters received	
Recommendation:	Approval
Applicant Name and Address: Mr & Mrs G Burrows 51 Terrenew Road Dungannon BT70 3AB	Agent Name and Address: ACA Architecture Ltd Cottage Studios Gortrush Great Northern Road Omagh
Executive Summary: The application seeks permission for a replacement dwelling and garage. The building to be replaced exhibits the essential characteristics of a dwelling and all external structural walls are substantially intact as per the requirements of PPS 21 CTY3. The proposed replacement dwelling is not sited within the established curtilage of the existing building and the application seeks to retain the existing building as an agricultural store. There are concerns and a number of objections have been received which specifically relate to the retention of the existing building as an agricultural store given the recent renovations and high standard of finishes to the existing subject building. However, overall it is considered the proposal complies with the relevant, prevailing planning policy. 13No. objections have been received and are considered below.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Advice
Statutory	DFI Roads - Enniskillen	Content
Non Statutory	NIEA	Substantive Response
Non Statutory	NIEA	No Objection
Statutory	Historic Environment Division	Content

Representations:

Letters of Support	None Received
Letters of Objection	13
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 application site comprises an existing two storey roadside dwelling with a farm holding comprising a number of farm buildings to the rear; a small triangular roadside field; and a portion of a large field which has a mixture of topsoil and an area of hardstanding/rubble. The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan 2010. The surrounding context is largely rural with agricultural land predominantly surrounding the site. However, the site is located immediately outside and adjacent to the settlement limits of Castlecaufield. The settlement of Caustlecaufield is to the NE and encompasses the agricultural field adjacent to the red line. The land within the red line is relatively flat however the ground level inclines significantly when travelling in a south-westerly direction along Reaskor Road, therefore the proposal site is on elevated land when compared to the ground level of the adjacent Parkanaur Road.

The two-storey replacement opportunity subject to this application site is in good condition and appears to have underwent recent interior and exterior renovations. On

the date of the site inspection it was noted recent front kerbing and evidence of a rear garden wall under construction providing a boundary between the farm holding and the existing building. The existing dwelling and farmyard are currently accessed via an existing access to the southern corner of the site, whilst the proposed access to the dwelling does not appear to be formalised however it was noted on the date of the site inspection that the boundary treatment to the northeast may have recently been removed. The south and east boundaries are defined by existing vegetation with the remaining boundaries relatively undefined. The existing farm buildings and partial hedging will provide some screening of the proposal site when travelling north-easterly on Reaskcor Road. Public views will be more open when travelling south-westerly on Reaskcor Road and also when travelling on the Terrenew Road and Parkanaur Road, particularly in a south-westerly direction.

Description of Proposal

This application seeks full planning permission for an offsite replacement dwelling with garage and retention of existing dwelling as an agricultural store at 20 Reaskcor Road, Dungannon.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030
 Strategic Planning Policy Statement for Northern Ireland
 Dungannon and South Tyrone Area Plan 2010
 PPS 2: Natural Heritage
 PPS 3: Access, Movement and Parking
 PPS 6: Planning, Archaeology and the Built Heritage
 PPS 21: Sustainable Development in the Countryside
 Building on Tradition - A Sustainable Design Guide for Northern Ireland

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

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 13 No. Objection letters have been received.

Seven identical objection letters were received in respect of the proposed development and relate to the following concerns:

- The existing dwelling is habitable and no justification has been provided to replace it or information as to why it cannot be retained or extended;
- The proposed site is approximately 3 metres higher than the ground level of the existing dwelling and the proposed dwelling is excessively large approximately 4 times larger than the existing dwelling;
- The siting and design fail to comply with planning policy and guidance. The siting is out of character with the traditional settlement pattern and the design is at odds with Building on Tradition in terms of excessive scale, glazed area, projections and roof planes.

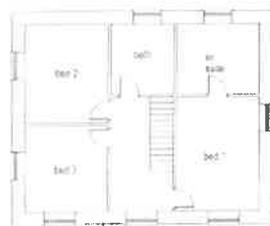
Three objection letters were also received from Mr Robert Carson and three further letters from Manor Architects and William Orbinson QC on behalf of Mr Robert Carson. These objection letters repeat the issues outlined above and also raise further concerns which I have aimed to summarise below:

- The existing dwelling is modern, does not have the characteristics of an agricultural building, does not readily lend itself to agricultural function and ample agricultural storage on site already. The dwelling has recently been refurbished and the proposal appears to be an attempt to have two dwellings on the holding;
- Retention should not be allowed rather conditioned to be demolished and removed otherwise this sets a worrying precedent, allows for a floundering of policy with potential for retention through five year rule; or a future change in policy may allow the conversion of the building back to dwelling status;
- No justification for off site location which offers no amenity or siting benefits;
- Residential amenity will be hampered due to access arrangements and proximity to farm buildings; acoustic reports, odours and other contamination reports which satisfy environmental health should be completed as house may at some stage be sold;
- Proposal significantly and grossly greater than the existing dwelling and the double garage attached to the dwelling emphasises the dwelling is too large and bears no relationship to the scale of site, building to be replaced or adjacent buildings;
- The description on the submitted drawings do not reference replacement dwelling and the floor plans are not fully detailing making it impossible to establish the scale of the structure;
- The proposal will fail to integrate, appear prominent from approaching vantage points and relies entirely on new planting and retention of the farm buildings to achieve any level of integration;
- Scale, massing, mix and match of styles are non-compliant with policy. Fenestration has disproportional solid to void ratio;
- Badgers often appear crossing the Reaskcor Road and the field boundary which runs west of the site is an ideal habitat for badgers which should be investigated;
- This is archaeologically sensitive area – 100m south of the proposed dwelling is a tree ring rath, evidence of ancient field systems in the wider area, north west is Lough Aughlish and an ancient Crannog therefore in accordance with Policy BH1 the proposal should be refused or HED should be consulted;
- Should Council consider Policy BH1 inapplicable having consulted HED, the objector contends the archaeological assets are of local importance and the proposal is contrary to Policy BH2 and permission should be refused if the setting of assets are not preserved by the proposal, as per paragraph 3.10 of PPS6;

- Objector suspects there could be some archaeological materials on site given the archaeological context of the site and elevated nature within that context therefore Policy BH3 is engaged and HED should be consulted and the and the Applicant should be requested to provide an archaeological evaluation involving ground surveys and targeted licensed excavation;

Consideration of concerns

- Retention of existing building – The application has sought retention of the existing building for agricultural storage. Further information regarding how the existing building will be adapted for agricultural use have been provided on Drawing 04 (pasted below). The members should consider the objectors' comments with respect the retention of the existing building. The extant Area Plan, as well as the emerging Local Development Plan and prevailing planning policy are the relevant policy context to be considered, it is not possible to consider future policy that does not or may not exist as referred to in an objection letter. Policy CTY3 does not include criteria on retention criteria including characteristics of the building or justification for retention. Should permission be granted, a condition will be attached to any forthcoming approval restricting the use to agricultural only and not for human habitation. Should the applicant be found to breach this planning condition, this will be a matter for the planning enforcement team.



First Floor Plan

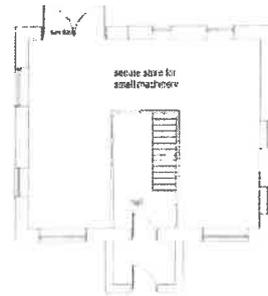


Ground Floor Plan

Existing Floor Plans 1:100



First Floor Plan



Ground Floor Plan

Proposed Floor Plans 1:100

- Siting of the proposed dwelling – The proposal seeks an offsite replacement dwelling, justification was sought for the proposed siting which was received on 13/01/21. It is not considered the proposed siting is out of character with the traditional settlement pattern as stated in objection letters, the proposed dwelling is sited behind an existing large agricultural shed which will assist with integration. However the siting of the proposed dwelling outside the established curtilage of the existing building is considered in greater detail in the assessment of policy criteria later in this report.

- Scale, massing and design of proposed dwelling – It is not agreed that the design is at odds with Building on Tradition guidance document. Whilst it is accepted there is a large amount of glazing which may in other instances be considered unacceptable, in this case the large glazed window features are to the northwest elevation where there will be limited public views of this elevation given the topography of the site and surrounding landform. The remaining elevations have an acceptable solid to void ratio with predominantly vertical emphasis fenestration, the front elevation includes dormer windows from the wall which it was noted are present in other dwellings in the surrounding area. There is a mix of house designs in the locality, the design and finishes which include natural sandstone feature to a portion of the dwelling and garage are considered appropriate to the rural setting and will not significantly impact local distinctiveness. The drawings submitted are all to scale and provide the size of the proposed dwelling. It is noted the objectors' comparisons with respect ridge height and scale of the existing and proposed dwellings are inaccurate. Drawing 02 Rev 2 provides site levels which indicates a ground level of the existing building broadly similar to that of the ground level of the proposed dwelling. It is noted that the proposed dwelling is significantly larger than the existing building, almost double in size with the existing building approximately 1873sqft, whilst the proposed building is approximately 3700sqft with a proposed double garage at 600sqft. However, it is noted that the building to be replaced is a large dwelling and in this instance it is considered the scale, size and design to be appropriate to the setting and the replacement opportunity. The policy test within Policy CTY3 is 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 considered in more detail in the assessment of policy later in this report.
- Residential amenity – An objector has questioned have acoustic reports, odours and other contamination reports been completed and Environmental Health consulted given proximity to farm buildings. The existing farm buildings are within the red line of the application site and are in the applicant's ownership as detailed on the signed Certificate A of the P1 Form. Given that the farm buildings are in the applicant's control, it is not considered necessary to request the applicant to go the time or expense to provide these reports and consultation with Environmental Health is not considered necessary in this instance. Should the proposed replacement dwelling be sold in the future, the proximity to existing farm building will be a matter of consideration for the buyer to consider in that instance/scenario and therefore does not form part of the assessment of this planning application.
- Badgers – Following receipt of the letter of representation raising concerns there may be badgers on site, the agent provided a Biodiversity Checklist which states there was no evidence of badger setts or usage within the site during the walkover assessment. NIEA were consulted as the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended). NIEA required clarification from the ecologist that the required 25m buffer zone, outside the Red Line Boundary was surveyed for badgers and further information in relation to the bat roosting potential should the existing building be removed. Clarification was received from Willow Environmental dated 29th September 2020 that the site within the red line boundary was checked for presence of badger and this was extended to 25-

30m beyond the development boundary and no evidence of badger was found and the existing building is to be retained as part of this proposal. Following this, NIEA have advised they have considered the impacts of the proposal on designated sites and other natural heritage interests and, on the basis of the information provided, have no concerns. It is therefore considered the proposal will not significantly impact natural heritage interests.

- Archaeologically sensitivity – Following receipt of the letters of representations raising concerns with regard potential impact to archaeological remains, assets and their setting, Historical Environment Division were consulted as the relevant statutory consultee under The Planning (General Development Procedure) Order (Northern Ireland) 2015 (as amended). HED advised in their response dated 11/02/21 that they had considered the application, letters of representation and conducted a site inspection to the site as well as a number of the archaeological monuments and historical landscapes in the surrounding area to assess the impact of the proposed development upon the setting of these monuments. They provided a detailed assessment and concluded HED does not consider that the proposed development will have any adverse impacts upon the settings of the historic monuments and designed landscape assets within the surrounding landscape. Due to the relatively small-scale development area and considering that it is not close to any of the recorded sites or monuments in the surrounding area, on the basis of current evidence the potential for buried archaeological remains within the proposed development area is considered to be low. Archaeological mitigation in advance of development is unnecessary in this case. Given that HED have carried out a detailed assessment, I am content that the proposal does not offend Policy BH1, Policy BH2 and Policy BH3 and do not consider refusal could be sustained on this basis.

History on Site

LA09/2017/0987/LDP - 1 Proposed pig house to include 4 working pens, 5 fattening pens and 3 holding pens. Access to be through existing field gate from Reaskcor Road, 1m high fence to perimeter of concrete yard - 25m South East of 20 Reaskcor Road, Dungannon – Certificate of Lawfulness 29/08/17

M/2002/0740/F - Replacement of fire damaged dwelling - Forthill Farm, 20 Reaskcor Road, Castlecaulfield – Permission Granted 27/08/02

Key Policy Considerations/Assessment

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

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

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

the countryside subject to certain criteria. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY3 of PPS21.

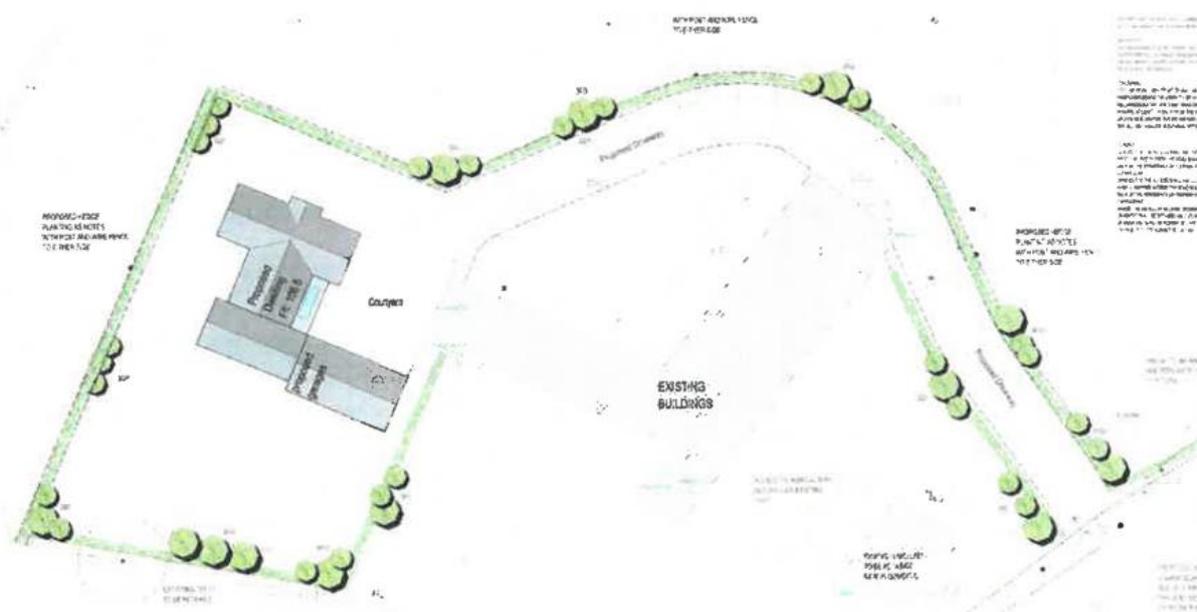
The building to be replaced is a two storey, rectangular shaped roadside dwelling. It was noted on the date of the site inspection that the dwelling appears to be recently refurbished. I am satisfied the building exhibits all the essential characteristics of a dwelling for the purposes of policy and whilst does not appear to be currently occupied, is finished to a high standard and could be lived in its current state. It was noted from a history search that the dwelling was granted permission for a replacement of a fire damaged dwelling in August 2002, prior to the adoption of PPS 21. The dwelling is not considered a non-listed vernacular building.

The proposed replacement dwelling is not sited with the curtilage of the existing dwelling and is located approximately 53 metres northwest of the existing dwelling, behind existing farm buildings. Policy CTY3 states the proposed replacement dwelling should be sited within the established curtilage of the existing building, 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 not considered the existing curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling therefore further information was sought from the applicant to justify the replacement dwelling being located offsite. A Supporting Statement was received on 13/01/21 which argues the following:

- the proposed siting provides demonstrable benefits including greater integration from the public vantage points;
- given the retention of the existing dwelling for agricultural use, the remaining curtilage would significantly limit the size and amenity space and the proposal site is the next available site which can provide amenity and integration;
- the shed currently under construction opposite the existing dwelling is outside the applicants ownership and has the potential to impact residential amenity.

It is accepted that the proposed siting provides an acceptable degree of integration given the existing farm buildings and trees will assist in screening public views and will ensure the proposal will not have a visual impact significantly greater than the existing building. However, it is not accepted the alternative position would result in demonstrable landscape benefits given the existing building is sought to be retained therefore will still be present in the landscape. As stated above, there are concerns with the retention of the existing dwelling as an agricultural store given the recent renovations to an extremely high standard observed on the date of the site inspection and noted in objection letters. However, following internal discussion with regard the prevailing policy it was agreed Policy CTY3 does not provide any policy tests with respect seeking to retain replacement opportunities and the proposed use as agricultural only will be conditioned to any forthcoming approval should permission be granted. It is accepted that there is not reasonable space to accommodate a dwelling within the remaining area of the curtilage as the existing dwelling is retained for agricultural storage as stated in the agents supporting argument above. The agent has also argued amenity grounds given there is an agricultural shed under construction opposite the existing dwelling which is outside the applicants control, located southeast and opposite the existing dwelling. Members should note a proposed Certificate of Lawful Development was granted for a Pig house to include 4 working pens, 5 fattening pens and 3 holding pens on this site, 25m South

East of 20 Reaskor Road on 29/08/17. However, it should also be noted this structure under construction is currently the subject to an ongoing enforcement investigation. The agent argues justification for the offsite replacement dwelling given proximity to this shed, however the proposed siting is located a mere 4.4 metres from an existing agricultural shed. Having considered this in internal group meetings, it is accepted that the existing sheds on site are within the applicants control whilst the shed currently under construction in proximity of the site is outside the applicants control and could potentially give rise to residential amenity issues in the future. Therefore, it is accepted the proposed siting could provide amenity benefits. As stated previously in this report, the siting of the proposed dwelling to the rear of existing large farm buildings will allow the application to integrate into the surrounding landscape. The land rises significantly when travelling from the settlement of Castlecaufield, southerly along Reaskor Road therefore the application site is elevated and appears on much higher ground and susceptible to public views particularly when travelling on Parkanaur Road and Terreneau Road. Having considered the siting of the proposed development in relation to the existing built form and vegetation on the site and the extent of public views of the site, it is not considered the proposal will detrimentally impact on rural character and the proposal will cluster with the existing farm buildings. The design is considered to be high quality, appropriate to a rural setting and although there is a modern elements with a large extent of glazing, this feature is to the northwest elevation where public views will be limited. It is noted there may be some views of this elevation on approach to Reaskor Road from the village of Castlecaufield, however given the proposed dwelling is sited in close proximity to the existing farm buildings, as well as existing trees, which will be conditioned to be retained, views of this modern feature will be filtered and short-term so this will not appear overbearing or unacceptable in this instance. It appears all necessary services are available without significant adverse impact on the environment or character of the locality.



On balance, following internal discussions with the Senior Planner it is considered the proposal meets the policy requirements of Policy CTY3 and therefore no refusal reasons on relevant prevailing policy grounds could be sustained. The retention of the existing dwelling will be conditioned for agricultural purposes only and a statutory charge will be

registered to ensure the existing dwelling is no longer used for human habitation. Should the existing dwelling be used for purposes other than agricultural, this will be a matter for Mid Ulster District Council Planning Enforcement to investigate.

CTY 13 Design and Integration and CTY 14 Rural Character under PPS 21 are also relevant to this proposal. The proposal site is relatively flat however it is noted the ground level is significantly higher than the ground level of the adjacent public road network. When travelling in either direction along Parkanaur Road, the application site appears at a significantly higher level. The proposed dwelling is a large two storey dwelling with attached large double garage. The design is considered acceptable and will not detract from the surrounding rural character. Given the siting in close proximity to existing large buildings, I do not consider the proposal will appear overly prominent and the existing built form will assist in providing a suitable degree of enclosure. It is considered the proposal will cluster with existing farm buildings and there is some degree of trees and existing vegetation to ensure acceptable visual integration into the surrounding landscape. Drawing 02 Rev 2 provides a landscaping plan which details the existing vegetation to the southern boundary to be retained with new planting along the remaining boundaries including the new proposed access. I do not consider the proposal will create a ribbon of development or significantly impact rural character. Overall, I consider the proposal is in accordance with CTY13 and CTY14

Access Considerations

The proposal seeks to create a new access onto Reaskcor Road. DfI Roads were consulted and have responded offering no objection subject to conditions ensuring the necessary vehicular access, including the permeant closure of the existing access to the replacement opportunity and the provision of visibility splays of 2.4m x 45m in both directions. I am satisfied that there is an adequate means of access to and from the site and that the proposal therefore complies with the requirements of PPS 3 AMP 2.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Having weighted up the above policy and material considerations, approval is recommended 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. Following the occupation of the dwelling hereby approved, the dwelling to be replaced, coloured green on the approved drawing No 01 bearing the date stamped 1st April 2020, shall only be used as an agricultural store and not for human habitation.

Reason: To ensure that the proposed development does not result in the creation of an additional dwelling in the countryside.

3. The dwelling hereby permitted shall not be occupied until the existing access indicated on Drawing No. 02 Rev 2 bearing the date stamp 12/11/2021 has been permanently closed and the verge properly reinstated to DfI Roads satisfaction.

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

4. The vehicular access, including visibility splays of 2.4 x 45m in both directions, shall be provided in accordance with Drawing No. 02 Rev 2 bearing the date stamp 12/11/2021 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.

5. 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.

6. The access gradient shall not exceed 8% (1 in 12.5) over the first 5.0m outside the road boundary. Where the vehicular access crosses footway or verge, 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. The gradients and levels of the site, and, the finished floor levels of the development hereby permitted shall be as shown on drawing No 02 Rev 2 bearing the date stamp received 12/11/2021, unless otherwise agreed in writing by Council.

Reason: To ensure the development integrates into the surroundings.

8. The existing mature trees and vegetation along the eastern and southern boundaries shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: In the interests of visual amenity.

9. 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 written consent to any variation.

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

10. All proposed planting as indicated on approved Drawing No. 02 Rev 2 date stamped 12/11/2021 shall be carried out in the first available planting season and any trees or shrubs which, within a period of 5 years from the occupation of the building, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of visual amenity.

Informatives

1. 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 Mid Ulster District Council or other statutory authority.
2. 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 Infrastructure for which separate permissions and arrangements are required.
3. 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 NI drainage system.
4. Notwithstanding the terms and conditions of the Mid Ulster District 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 DfI Roads Section Engineer whose address is Moygashel Depot, Main Street, Moygashel, BT71 7QR. A monetary deposit will be required to cover works on the public road.
5. 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*);
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.

6. If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
7. 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; or
 - e) To damage or destroy a breeding site or resting place of such an animal.
8. If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.
9. 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 or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).
10. The applicant's attention is drawn to the HED document Guidance on Setting and the Historic Environment, which provides advice on the analysis of the settings of heritage assets in Northern Ireland, and how the potential effects of development proposals may be assessed.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0657/O	Target Date: <add date>
Proposal: Proposed Dwelling	Location: Between 66 & 66a Derryoghill Road Dungannon Co.Tyrone
Applicant Name and Address: Eugene Daly 88 Derryfubble Road Dungannon BT71 7PW	Agent name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Summary of Issues: The proposed dwelling does not fully meet the infill exception in the ribbon development policy, policy for a dwelling on a farm or the clustering policy. A dwelling on the site is bounded on 3 sides by development and a low elevation dwelling sensitively sited would have limited impacts on the appearance of the area and the amenity of the surrounding development. An exception may be made here as the policy meets the spirit of the policy for clustering.	
Summary of Consultee Responses: DFI Roads – content if conditions are attached to provide a safe access. DEARA – active and established farm, site is on the business	
Characteristics of the Site and Area: The application site lies within the rural area outside any defined settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site comprises a roadside plot of land to the side and rear of No.66 Derryoghill Road with the red line also including a portion of the existing curtilage of No.66. The adjacent road network is a minor, single-track winding road. The settlement of the Moy is located in proximity to the northeast. The immediate surrounding context is rural characterised predominantly by agricultural fields, however there is moderate development pressure in the immediate context. The site is relatively open to the front with gravel and hard core present particularly around the entrance where there is a metal gate for enclosure. The southern boundary is well defined with established trees. The eastern boundary is currently defined with	

scattered trees and wooden fencing enclosing the neighbouring property, No.66a. The western boundary of the proposal site is currently undefined however beyond the red line behind the existing outbuildings, which are located in the western corner of the field, established trees and hedging define the western boundary of the land. There is a gradual incline from north east to south west, with the proposal site on slight elevated ground from that of the adjacent road.

Description of Proposal

This is an outline planning application for a dwelling on a gap site under Planning Policy Statement 21, Policy CTY 8, Ribbon Development.

Deferred Consideration:

This application was before the committee in September 2020 where it was deferred for an office meeting with the Planning Manager. The office meeting took place on 10th September and it was raised that there was a new dwelling under construction that had not been factored into the considerations for the infill.

The image below is a relatively recent aerial photograph showing dwellings in blue, other buildings in orange and a large garage currently nearing completion in yellow.



Fig 1 – development around the site

The dwelling and garage to the south east of the site are relatively new as they were approved Outline Planning Permission under reference M/2003/0996/O on 17 October 2003 and Reserved Matters were approved under M/2006/1788/RM on 12 December

2006. That dwelling and garage are located around a blind corner and cannot be read with the existing development at 66 and 66a Derryoghill Road. I do not consider these assist in making the case for an exception to the ribbon development policy.

The case officer has previously assessed the buildings at 66 and 66a along with the buildings that are offset to the rear of No 66. There is a large chalet bungalow at 66a, a modest bungalow at 66 and 2 large sheds offset and to the rear of no 66.



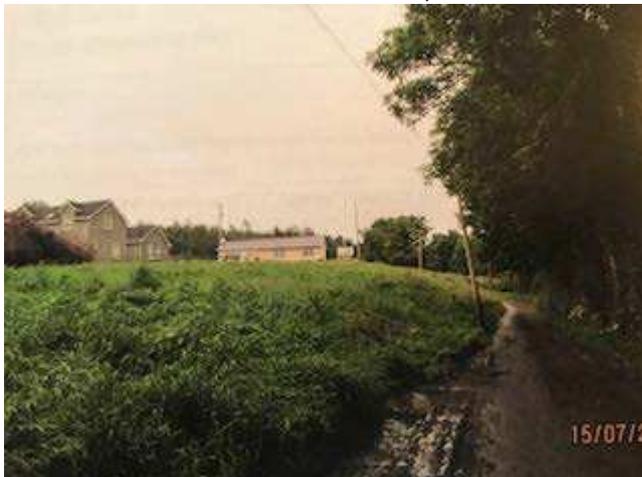
Site from road directly in front

The sheds to the rear of No 66 are fairly substantial as can be seen below.



Buildings behind no 66 Derryoghill Road

These buildings are visible on approach to the site from the north as there is no vegetation to the rear of or around no 66, as can be seen in the photograph below.



Approach to site from north, H shaped dwelling in the foreground and no 6 with large shed to rear in centre

Members are aware that Policy CTY8 is to prevent Ribbon Development as it is detrimental to the character, appearance and amenity of the countryside. There is an exception within the policy which is generally referred to as infill opportunities. This exception allows development of a small gap site sufficient only to accommodate a maximum of 2 dwellings within a line of 3 or more buildings along a road frontage without accompanying development to the rear. It must respect the pattern of development along the frontage in terms of size, scale siting and plot size and meet all other planning and environmental considerations. It does not necessarily have to be served by individual accesses nor have a continuous or uniform building line, buildings sited back, staggered or at angles with gaps between them can represent ribbon development if they have a common frontage **or** are visually linked.

The main issue with the infill opportunity relates to the number of buildings along the frontage and whether or not the buildings at the rear of No 66 are accompanying development. Members will be aware the ribbon development policy refers to buildings and not dwellings, indeed there have been cases where detached domestic garages located at the side of a dwelling have been considered as a building for the purposes of ribbon development and site have been allowed on that basis. Recent guidance from the Department for Infrastructure seeks to clarify this position as it seems to be excluding unsubstantial ancillary buildings such as domestic garages or small outbuildings from the definition of a building for the purposes of this policy. In this case it is not so clear, there are 3 buildings behind that are to the rear of No66, albeit they are partially off set and not directly behind no66. The curtilage of No66 is not well defined on the ground, there was a high hedge around it which has been cleared away and it is difficult to determine if the buildings were within the curtilage of no66. It is obvious these buildings had their own access, separate from no66 however I cannot be certain they are not accompanying development to no 66. In view of this I am unable to consider these buildings for the purposes of the definition of a substantial and built up frontage.



Google StreetView image captured Apr 2009

While the application has been proposed as an infill dwelling other opportunities in PPS21 will be considered.

CTY10 – Dwelling on a farm

The applicants brother, Brian Daly has a farm at Derryfubble Road to the east of Eglisk and as such the applicant has asked that a farming case is taken into account. The

applicant has advised his brother uses these buildings in association with his farming activities. DEARA have confirmed the farm business is currently active and has been established for over 6 years, they have also advised the site is located on the business.

The main farm is approx. 5kms from the site and the farmer also takes some ground at Gorestown Road, approx. 2.5kms from the site between Eglis and The Moy. The farm at Derryfubble Road is in 2 parts,

- the west part of the farm is comprised of a large field, 2 dwellings and farm buildings. Planning permission for one of the dwellings was granted under M/2010/0259/O and M/2010/0571/RM beside 88 Derryfubble Road for Mr Eugene Daly. This permission was granted over 10 years ago however land registry checks indicate that this land, the adjoining farm buildings and dwelling at 88 Derryfubble Road was registered to Margaret Daly on 22 June 2012. This may count against this business ID as it would appear to be a development opportunity that has been transferred off the farm.
- the east part of the farm is comprised of 2 fields, mushroom houses and the sub floor of a dwelling that appears to have been granted permission under M/1994/0168. This land was registered to Eion Daly in January 2009, over 10 years ago. This does not count against the farm for the purposes of a dwelling once in 10 years as provided for in CTY10.

Other lands farmed are at Gorestown Road, these are taken in con acre and are not owned by the applicants brother. A dwelling for a farmer was approved on them in 2017 and as such that business ID cannot be used for another dwelling on the farm until 2027.

The site is behind the applicants house and beside the existing buildings that have an agricultural appearance. Given that DEARA have advised the site is located on the farm business, I consider these are buildings on the farm and a dwelling here would be sited to cluster with them. I consider this would meet with the recent advice issued by the Department for buildings on farms.

Due to the registration of the land in 2012, I am not content there have not been development opportunities transferred off the farm in the last 10 years and as such I do not consider it meets all the requirements of policy CTY10.

CTY2a – Dwelling in a cluster

From the bend in the road to the northeast of the application site I was aware of the buildings at the rear of 66, no66 and no 66a as well as large H shaped dwelling on the opposite side of the road. When at the entrance to the site I was also aware of the above development as well as another dwelling further to the north. This site is bounded by the chalet dwelling to the east, the bungalow to the north east and the 3 buildings which have an agricultural appearance to the west. Opposite there is a large H shaped bungalow and a large chalet type dwelling further north, that while separate, is visible within the group. I consider this meets four of the criteria for a dwelling in a cluster as set out in CTY2a; first, second, fourth and fifth criteria as is apparent in fig 1 above.

I am aware there has been objections from the neighbouring property in relation to loss of amenity due to loss of privacy, overlooking, dominance and overshadowing. As this is for outline planning permission, the details of a dwelling have not been submitted for

assessment. The applicant submitted an indicative layout to show how a dwelling could be located on this site, taking account of the neighbouring property.



Indicative layout to illustrate how a dwelling could be located on the site taking account of amenity of the neighbouring property.

It is accepted there is a higher threshold for amenity in the countryside than in the towns or villages, as buildings would be more spread out, though the overall thrust of the policy is to cluster development. In this case the applicant has indicated they propose to set the new dwelling behind the rear wall of the objectors dwelling with ground levels reasonably similar between the existing dwelling and the proposed site. Whilst the front of the proposed dwelling is behind the existing dwellings rear wall, if sited as proposed I do not consider it would have the potential to look into the rear windows or the rear amenity space due to the oblique angle of the windows in the front wall of the proposed dwelling. Conditions to prevent any windows in the elevation facing south and a ridge height restriction would, in my opinion limit the potential for any overlooking or overshadowing of the existing dwelling or its private amenity space to an unreasonable degree. The dwelling immediately in front of the site is the applicants dwelling, it sits at a lower level than the proposed site and its amenity space and windows face towards the site. Aerial photographs and streetview images indicate that the area to the rear has been separated from the dwelling and had, until recently, a mature hedge around it. I consider a new hedge would be able to provide the necessary screening of the applicants dwelling and it is in their interest to provide this. An appropriately designed and sited dwelling with hard and soft landscaping could mitigate against any concerns about amenity and I consider it

may be appropriate to attach conditions in relation to the size and location of any dwelling if one were approved which would ensure the sixth criteria of CTY2a could be met.

In relation to the third criteria, the site is not associated with a focal point or at a cross roads. To the north west is the disused Ulster Canal, which I do not consider would meet this criteria and also it is removed from the cluster and not associated with it. Members will be aware the Department has published recent guidance about dwellings in clusters and that all the criteria should be met unless there are other over riding material considerations for not doing so. I do not consider the proposal meets all the criteria for a dwelling in a cluster as it is not associated with a focal point.

That said a low elevation dwelling sited as indicated on the indicative plan will be well enclosed by buildings on 3 sides and screened from any substantive public views. A suitably located and dimensioned dwelling here, while not meeting the strict letter of the clustering policy, would albeit in my opinion, respect the general thrust of and spirit of the clustering policy given the number of houses around it and its enclosure on 3 sides by built development. In light of these site specific and in my view limiting circumstances, I do not believe if the members were to allow this dwelling as an exception to policy, that it would set a far reaching precedent.

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

While I am unable to advise members that the proposal meets the criteria for a dwelling in accordance with Policies CTY2a, CTY8 or CTY10, I do consider that an exception may be made and that a dwelling could be approved here which is in the spirit of the clustering policy but does not meet it. My recommendation is to approve with the conditions set out below that consider are necessary to ensure the site specific features are retained and that visual and residential amenity are maintained.

Conditions/Reasons for Refusal:

Conditions:

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

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

2. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

- i. the expiration of 5 years from the date of this permission; or
- ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

4. The proposed dwelling shall be sited as shown on drawing No 02/1 bearing the stamp dated 22 MAR 2021.

Reason: In the interests of rural character and to protect residential amenity.

5. The proposed dwelling shall have a ridge height of not more than 6.0 metres above the existing ground level.

Reason: To ensure that the development is in character with the surrounding area and to protect residential amenity.

6. Prior to the commencement of any development hereby approved the vehicular access, including visibility splays of 2.4m x 45.0m and forward sight distance of 45.0m shall be provided in accordance with the RS1 form and details to be approved at Reserved Matters with the access generally in the location shown on drawing No 02/1 bearing the stamp dated 22 MAR 2021. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

7. The existing natural screenings of the site shall be retained in accordance with details to be submitted and approved at Reserved Matters stage. These shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

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

8. All hard and soft landscape works shall be carried out in accordance with the plans as may be approved at Reserved Matters stage and the appropriate British Standard or other recognised Codes of Practice. All proposed landscaping shall be native species and new hedges shall be planted along the boundaries of the site between points A-B and C-

D as shown on drawing no 01 bearing the stamp dated 11 JUN 2020. The landscaping shall be carried out within 6 months of the date of occupation of the development hereby approved and any tree shrub or plant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.

REASON: In the interests of visual and residential amenity and biodiversity.

9. The existing buildings identified in green on drawing number 01 bearing the stamp dated 11 JUN 2021 shall be retained in accordance with details to be submitted and approved at Reserved Matters stage. These shall be retained unless necessary to prevent danger to the public.

Reason: This development is granted solely on the basis these buildings provide enclosure to the proposed development.

Informative:

1. Planning permission does not provide title and the applicant must satisfy himself that he controls all the land necessary to carry out this development in full.

Signature(s):

Date



Project Proposed Dwelling	
Location Between 68 & 86a Darryoghil Road Dungannon	
Client Mr E Daly	
Drawing Location Map	
Scale 1:2500	Date June 20
Ref 3640-01	Comments

JAK
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Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0657/O	Target Date: 24/09/20
Proposal: Proposed Dwelling	Location: Between 66 & 66a Derryoghill Road Dungannon Co.Tyrone
Referral Route: Recommended refusal – contrary to PPS21 Policy CTY8 2no. Objections received – summarised and considered below	
Recommendation:	Refusal
Applicant Name and Address: Eugene Daly 88 Derryfubble Road Dungannon BT71 7PW	Agent Name and Address: J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	2
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 application site lies within the rural area outside any defined settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site comprises a roadside plot of land to the side and rear of No.66 Derryoghill Road with the red line also including a portion of the existing curtilage of No.66. The adjacent road network is a minor, single-track winding road. The settlement of the Moy is located in proximity to the northeast. The immediate surrounding context is rural characterised predominantly by agricultural fields, however there is moderate development pressure in the immediate context. The site is relatively open to the front with gravel and hard core present particularly around the entrance where there is a metal gate for enclosure. The southern boundary is well defined with established trees. The eastern boundary is currently defined with scattered trees and wooden fencing enclosing the neighbouring property, No.66a. The western boundary of the proposal site is currently undefined however

beyond the red line behind the existing outbuildings, which are located in the western corner of the field, established trees and hedging define the western boundary of the land. There is a gradual incline from north east to south west, with the proposal site on slight elevated ground from that of the adjacent road.

Description of Proposal

This is an outline planning application for a dwelling on lands between 66 & 66a Derryoghill Road, Dungannon.

The dwelling is being considered as a gap site under Planning Policy Statement 21, Policy CTY 8, Ribbon Development.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030
Strategic Planning Policy Statement for Northern Ireland
Dungannon and South Tyrone Area Plan 2010
PPS 21: Sustainable Development in the Countryside
PPS 3: Access, Movement and Parking

Mid Ulster Development Plan 2030 Draft Plan Strategy was launched on the 22nd February 2019. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March for 8 weeks. The re-consultation period will close on 5pm on 24th September 2020. In light of this the draft plan cannot currently be given any determining weight.

Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2 objection letters were received, the details of which are outlined and considered below.

Objection Letter One – Josefa Anderson received 7th July 2020

- The proposal will have an adverse impact on the residential amenity of No.66a in terms of overlooking/loss of privacy; dominance; overshadowing/loss of light.

The proposal is for outline planning permission for a dwelling. The siting and design of the dwelling would be a matter for any forthcoming full or reserved matters applications should outline permission be granted. I consider that the issues and concerns outlined could be resolved or addressed at this stage through an appropriate design, siting and scale to ensure no detrimental impact to neighbouring properties.

- The proposal site will create a ribbon of development and should not be considered as a continuously built up frontage as No.66, 66a and the dwelling south of No.66a do not read together and cannot be viewed together at any point when travelling on Derryoghill Road. The accompanying development to the rear should not be included as a substantial built up frontage as stated in Policy CTY8.

The proposal is considered against the relevant prevailing planning policy in detail below. It is considered below that the proposal is contrary to Policy CTY8.

- The existing road network cannot cope with more vehicles.

The proposal has been considered against the prevailing planning policy PPS3 Access, Movement and Parking below. DfI Roads have been consulted and have offered no objections to the proposed access for dwelling.

- The proposal may impact the environment as two properties have underground electric cables and the objectors property has a sewer pipe which runs into soakaway on family land.

The environmental impacts of the principle of a development on the site have been considered. It should be noted Natural Environment Division map viewers have been assessed and there is no natural heritage interests of significance on the site or in close proximity. Should outline planning permission be granted, the concerns with regard underground cables and pipes could be addressed through the siting of the proposal.

Objection Letter Two - Paul Haughey (P Haughey & Co. Solicitors) on behalf of Adrian Anderson received 11th July 2020

- Dispute over ownership of the vast majority of the lands subject to the planning application. Objection letter advises his client has legal ownership of the land.

The agent has completed Section 27 of the P1 Form and signed Certificate A on behalf of the applicant. It was not considered necessary to seek clarification as to land ownership in response to this objection given I do not consider the principle of development is acceptable regardless. In the case that it is considered planning permission should be granted, this may need to be further considered. However, it should be noted that land ownership is a civil matter that is outside the remit of planning.

History on Site

M/2003/0996/O – Proposed dwelling - 80m South of 66 Derryoghill Road, Dungannon – Permission Granted 17/10/03

Key Policy Considerations/Assessment

Dungannon and South Tyrone Area Plan 2015 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

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

are retained. 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.

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

PPS21 is the overarching policy for development in the countryside. Policy CTY 1 provides clarification on circumstances in which development will be permitted in the countryside. PPS21 - CTY 8 states planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

In this case, it is my opinion that the proposal does not constitute a gap site within an otherwise substantial and continuously built up frontage.

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. The proposal site comprises a section of the driveway of No.66 Derryoghill Road, a detached single storey dwelling, and a parcel of land immediately adjacent which appears to be currently unused for any purpose. Within the field subject to the application but outside the red line, there are two outbuildings located in the western corner approximately 26 metres from No.66. The outbuildings appear to be associated with the property of No.66. On the date of the site inspection it was noted one outbuilding was secured with a garage design and the other outbuilding is decrepit with a barn like design. Immediately adjacent on the southeastern boundary of the site is a detached storey and a half dwelling, No.66a Derryoghill Road. Adjacent to No.66a to the southeast there is a field with road frontage which is densely populated with established trees. In this case, there are only two buildings in a line along this part of the Derryoghill Road which has a frontage to the public road. The outbuildings to the rear of No.66 do not have a frontage to the road, Policy CTY8 specifically states “without accompanying development to the rear”. The proposal site is not located within a substantial and continuously built up frontage in that there are not three buildings in a line which share a common frontage therefore the proposal is considered to be contrary to Policy CTY 8. I consider that if approved the proposal would reinforce a built-up appearance to Derryoghill Road and would be detrimental to the character, appearance and amenity of the countryside by adding to ribbon development.

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 is of an appropriate design. The application site is located along the roadside however given the existing, established vegetation to the rear which provides a backdrop, I consider the proposal site could accommodate a single storey dwelling with a suitable degree of enclosure without appearing as an overly prominent feature in the landscape. The topography of the site rises therefore the proposed dwelling would be on higher ground than that of the road and adjacent dwelling of No.66 Derryoghill Road. I consider the

principle of development is unacceptable as it does not meet the criteria within Policy CTY1 and CTY8, however should planning permission be granted, the design of the proposed dwelling would be a matter for consideration at the Reserved Matters stage. I consider it would be necessary to condition a maximum ridge height of 5.5 metres to ensure integration into the setting. It is considered a dwelling could visually integrate into the surrounding landscape, however the site would require further landscaping and vegetation to the northeast and southeast boundary but would not rely primarily on this for integration.

In terms of policy CTY14, 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. It is considered that the existing and established boundary treatment to the northwest and southwest of the site would assist in integrating a dwelling. However, as stated above I do not consider the proposal is located in a continuous and built up frontage therefore the proposal would add to a ribbon of development and results in a suburban style build-up of development when viewed with existing and approved buildings. Therefore I consider the proposal is contrary to Policy CTY14.

PPS 3: Access, Movement and Parking

DfI Roads have been consulted and have raised no objections to the proposal subject to conditions. Therefore, it is not consider a dwelling on the site satisfying Policy AMP2 of PPS3 and would not prejudice road safety or significantly inconvenience the flow of traffic.

Additional considerations

In addition to checks on the planning portal online, environmental map viewers have been checked and identified no natural or built heritage interests of significance on site.

Neighbour Notification Checked

Yes

Summary of Recommendation:

The proposal is recommended for refusal, as it does not comply with CTY8 and CTY 14 of Planning Policy Statement 21.

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal site does not constitute a small gap site within an otherwise substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along Derryoghill Road.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in a suburban style build-up of development when viewed with existing and approved buildings and add to a ribbon of development.

Signature(s)

Date:



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/0707/F	Target Date:
Proposal: New infill dwelling and garage	Location: 20m East of 15 Lisgorgan Lane Maghera
Applicant Name and Address: William Drennan 24 Lisgorgan Lane Upperlands Maghera	Agent name and Address: OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
Summary of Issues: Application had been previously refused under CTY1, CTY2a, CTY8 and CTY14. Following a deferred meeting and site visit the recommendation is now an approval with conditions.	
Characteristics of the Site and Area: The site is located in the rural countryside. The sites boundary runs along a shared laneway, identified as a public right of way and is currently an agricultural field. There are a large number of residential properties located in the vicinity.	
Description of Proposal Full application for an Infill dwelling and garage	
Deferred Consideration: The application was initially presented to Committee in Feb 2021 as a refusal under CTy1, CTY2a, CTY8 and CTY14 and was subsequently deferred for an virtual office meeting which was held on 11 th Feb 2021 with the Area Planning Manager. It was agreed at the meeting that the site was re-visited and re-assessed on the basis of CTY8 and CTY2a.	

Following a site visit, in terms of CTY8 I would be in agreement with the original case officer that the gap does not represent a gap in an otherwise substantial and continuously built up frontage.

The agent put forward the argument of the existing business being a focal point under policy CTY2, new dwellings in existing clusters. There are a number of other criteria which also needs to be met for a dwelling to be permitted under this policy.

Certain criteria must be met in order to meet the policy for Policy CTY2a – New dwellings in existing clusters. In the policy this states it should be a focal point 'such as' a social/community building/facility. After visiting the site, I would be of the opinion that the existing business- 'Mol Tools and Abrasives Ltd' - wholesale supplier of power tools and accessories, could be viewed with the site as a focal point.

There must also be a cluster of development which lies outside a farm and consist of 4 of more buildings, of which at least 3 are dwellings. This excludes garages and outbuildings. I would consider this cluster has at least 3 dwellings and a Business premises which would constitute at least the required number. The existing cluster appears as a visual entity in the local landscape. It is bound with development within the cluster on at least two sides.

In the policy there is no exhaustive list of what constitutes a focal point, but rather some examples are given. A focal point is considered as giving a place a 'sense of identity' and somewhere that is well known to the local community with a sense of presence, and so keeping within the spirit of the policy. I would consider the existing business 'Mol Tools and Abrasives Ltd', who have been established for approx. 20 years, would fall under this (see image below, blue star indicates the Business) and therefore meeting the criteria of CTY2a.



Site in red, showing cluster of development

In terms of the impact of nearby dwellings, design and siting changes made to ensure minimal impact on amenity of neighbours, and in particular has moved away from N0.15 to the far edge of the site as shown below. Objections had been received on the original scheme regarding a right of way and the siting of the dwelling. Neighbours were re-notified and at the time of writing this report the neighbour notification expiry date had passed on 13th August 2021 and no further objections were received. Design is acceptable and in keeping with the rural design guide, and the proposed dwelling would not have any detrimental impact on the existing character of this rural area. Landscaping proposed is sufficient to provide adequate integration.



Re-siting of dwelling in relation to No.15

Approval is recommended on this basis with conditions.

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

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 landscaping comprised in the approved details of landscaping on the stamped approved Drawing No. 02/04 Date stamped 8 July 2021, 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

3. The vehicular access including visibility splays 2.4 x 120 metres and any forward sight distance, shall be provided in accordance with Drawing No 01 rev 03 bearing the date stamp 19 May 2021 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s):

Date

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0707/F	Target Date:
Proposal: New infill dwelling and garage	Location: 20m East of 15 Lisgorgan Lane Maghera
Referral Route: Recommended for refusal Objections received	
Recommendation:	Refusal
Applicant Name and Address: William Drennan 24 Lisgorgan Lane Upperlands Maghera	Agent Name and Address: OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content

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

Objections have been received regarding the access to the site and the extent of the location of the dwelling proposed on the site. The objections have been considered as part of this planning report.

Characteristics of the Site and Area

The site is located within the open countryside as per the Magherafelt Area Plan 2015. The red line of the site runs along a shared laneway, identified as a public right of way and includes a small portion of an agricultural field located adjacent to 15 Lisgorgan Lane, Kilrea. The area is mainly agricultural however, there is a high number of dwellings for a rural location with a cluster of development visible.

Description of Proposal

This is a full planning application for a new infill dwelling and garage on lands 20m East of Lisgorgan Lane, Maghera.



Image 1: Site block plan

Planning Assessment of Policy and Other Material Considerations

Magherafelt Area Plan 2015

Mid Ulster District Council Local Development Plan 2030-Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking:

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 application is for a dwelling to be considered under Policy CTY8.

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'.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

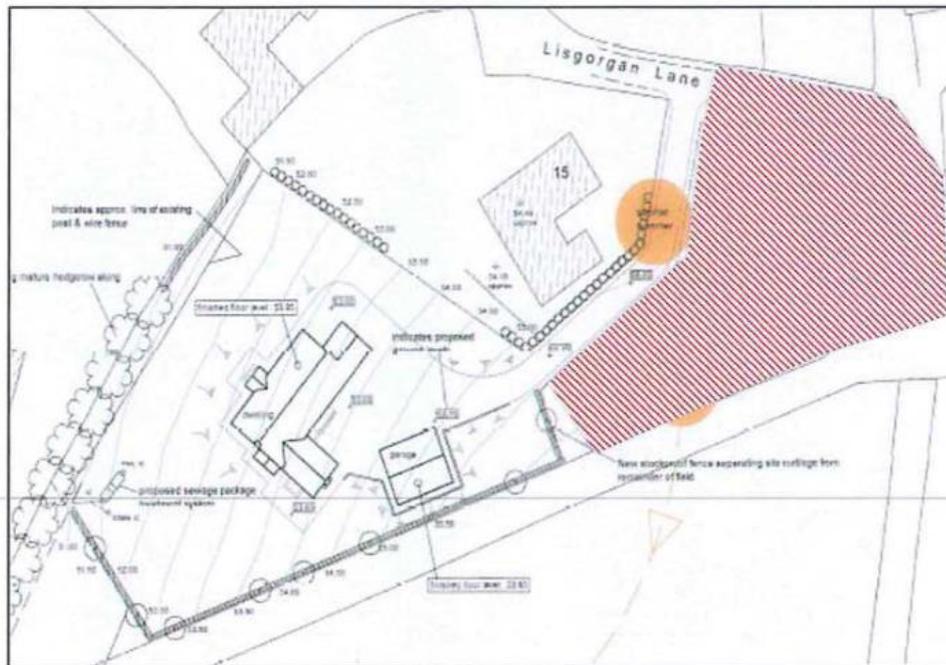


Image 2: Approval adjacent

The proposed site is located along a shared laneway, identified as a public right of way and is located at the end of this lane, where it joins another laneway. I am content that the size of the proposed site is sufficient to accommodate a dwelling. However, given the pattern of development along the laneway, the site does not represent a gap site as it is at the end of a continuously built up frontage. The proposed site does not have development to the east or south of the site and therefore cannot be considered a gap site as there is no gap to be filled. No.15 Lisgorgan lane is accessed to the North of the site, with a new dwelling under construction to the South West of No.15 Lisgorgan Lane that is also accessed via a new access point between this application site and No.15. This dwelling under construction faces in a North Westerly direction towards the Kilrea Road and is shown above in image 2, with the current application site hatched in red.

It can be considered that the two dwellings mentioned and the application site share a common road frontage as they are all accessed via Lisgorgan lane, however they all have different frontages, with the application site proposing to front in a south eastern direction, No.15 facing easterly and the dwelling under construction facing in a north westerly direction. I do not believe the application site shares a common frontage but I would agree they are visually linked within the character of the area. I do not believe the site represents a gap in an otherwise substantial and continuously built up frontage therefore, fails to meet the policy criteria of CTY 8.

Although the application description states the proposal is for an infill, the application can also be assessed under Policy CTY2a- New dwellings in existing clusters. However, the site does not

meet all the policy criteria required. I am content there is a cluster of development at this location, which consists of four or more buildings, of which at least three are dwellings.

I am content that the cluster appears as a visual entity in the landscape. However, the cluster of development is not associated with a focal point such as a social or community building/facility or at a cross roads, so fails to meet this policy criteria.

I am content that the site provides a suitable degree of enclosure and is bounded on the east and north with existing development within the cluster and that the site can be absorbed into the existing cluster through rounding off.

I would have some concerns surrounding the location of the proposed dwelling on the site and its proximity to No.15 Lisgorgan Lane. The proposed siting of the dwelling sits close to the boundary of the site and within close proximity to No.15, although a new laneway separates the two sites. The rear elevation contains many windows at ground floor level and may give rise to concerns surrounding residential amenity particularly to No.15. It is noted that the site is relatively small and that proposed planting is to take place at this boundary to screen the site, which would reduce any negative impacts on residential amenity.

However, as the proposal does not meet all the criteria listed above, it fails to meet the policy requirements of CTY2a.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that the dwelling proposed would not be a prominent feature in the landscape. The site does lack established boundaries at some sides, particularly the south and western boundaries but will not rely solely on new landscaping for integration. I am content that the proposal meets the criteria of CTY 13, as it would blend in with the existing character of the area given the number of dwellings at this location.

Policy CTY 14 states planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I believe the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings, as there is no gap site to fill, it would also add to a ribbon of development in the area. As a result, this would erode the rural character of the area, as the proposal cannot be considered as part of a cluster or an infill opportunity. I do not believe the impact of ancillary works would damage the rural character of the area.

Other material considerations

Two objections have been received in relation to this application with the crux of the issues relating to the impact the development would have on the existing right of way. The objector also brought it to the attention of the planning department that the application form was not correct and the maps did not identify the right of way. Since this the applicant has submitted amended plans showing the right of way and revised plans showing that no development will be taking place on the right of way. From this I am content the objectors concerns have been resolved.

DfI Roads were also consulted and requested amended drawings to show visibility splays of 2.4 x 120 metres, which the applicant provided. DfI also noted the objections on file and states that Lisgorgan Lane is not adopted by DfI Roads and provided no further comments or objections subject to conditions and informative being applied.

The Mid Ulster District Council Local Development Plan 2030 -Draft Plan Strategy: was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy commenced at 10am on the 25th March and was to run for 8 weeks. Due to issues faced with COVID19, this period has

been extended and closed at 5pm on 24th September 2020. In light of this, the draft plan cannot currently be given any determining weight.

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal is not located within an existing cluster of development that is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a gap site within a substantial and continuously built up frontage and would if permitted; create a ribbon of development along Lisgorgan Lane.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would result in a suburban style build-up of development when viewed with existing and approved buildings.

Signature(s)

Date:

ANNEX	
Date Valid	22nd June 2020
Date First Advertised	7th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
<p>John Stewart</p> <p>.</p> <p>The Owner/Occupier, 10 Lisgorgan Lane Upperlands Maghera</p> <p>The Owner/Occupier, 141 Kilrea Road Upperlands Londonderry</p> <p>The Owner/Occupier, 15 Lisgorgan Lane Upperlands Maghera</p> <p>The Owner/Occupier, 17 Lisgorgan Lane, Upperlands, Maghera, Londonderry,</p> <p>The Owner/Occupier, 2 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE</p> <p>The Owner/Occupier, 4 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE</p> <p>The Owner/Occupier, 9 Lisgorgan Lane, Upperlands, Maghera, Londonderry, BT46 5TE</p> <p>John Stewart Email Address</p>	
Date of Last Neighbour Notification	27th November 2020
Date of EIA Determination	
ES Requested	Yes /No
Planning History	
<p>Ref ID: LA09/2020/0721/F Proposal: 1No. Industrial Unit to provide storage, office, and ancillary facilities Address: 202m S.E. of 24 Lisgorgan Lane, Upperlands, Decision: Decision Date:</p> <p>Ref ID: LA09/2020/0332/F Proposal: Retrospective planning application for 2 industrial units and retrospective change of use of 2 agricultural sheds to industrial units Address: 245m East of 24 Lisgorgan Lane, Upperlands, Decision:</p>	

Decision Date:

Ref ID: LA09/2020/0707/F

Proposal: New infill dwelling and garage

Address: 20m East of 15 Lisgorgan Lane, Maghera,

Decision:

Decision Date:

Ref ID: LA09/2019/0525/F

Proposal: Proposed change of house type with detached garage and extension to site curtilage from that approved under approval LA09/2017/1773/F

Address: Lisgorgan Lane 5 Metres South of 141 Kilrea Road, Upperlands, Maghera,

Decision: PG

Decision Date: 01.07.2019

Ref ID: LA09/2017/1773/F

Proposal: Proposed infill dwelling

Address: 5m South of 141 Kilrea Road, Upperlands, Maghera,

Decision: PG

Decision Date: 17.08.2018

Ref ID: LA09/2018/0751/F

Proposal: Replacement of foundations and associated works under approval H/2008/0398/RM for alternative site located at 20m North of Lisgorgan Lane, Upperlands, for new dwelling and garage in substitution for previously approved dwelling.

(amended description)

Address: 20M North of 2 Lisgorgan Lane Upperlands Maghera,

Decision: PG

Decision Date: 10.01.2019

Ref ID: H/2008/0154/F

Proposal: Retention of private access and laneway

Address: Adjacent to 139 Kilrea Road, Upperlands

Decision:

Decision Date: 12.12.2008

Ref ID: H/2004/1123/O

Proposal: Site for Bungalow.

Address: Adjacent to 2 Lisgorgan Lane, Upperlands, Maghera.

Decision:

Decision Date: 26.07.2005

Ref ID: H/2005/1111/F

Proposal: Extension to dwelling and conversion of barn to living accommodation.

Address: 10 Lisnagoran Lane, Lisgorgan Glebe, Maghera

Decision:

Decision Date: 03.07.2006

Ref ID: H/2010/0183/O

Proposal: Site of proposed single dwelling as infill

Address: 5m South of No.141 Kilrea Road, Upperlands, Maghera

Decision:

Decision Date: 28.09.2010

Ref ID: H/2004/1019/O
Proposal: Site of 1no Dwelling and 1no Garage.
Address: Adjacent to no 10 Lisgrogan Lane, Upperlands, Kilrea.
Decision:
Decision Date: 24.10.2005

Ref ID: H/2008/0053/F
Proposal: Proposed change of house type & new domestic garage to supersede existing approval H/2007/0273/RM
Address: Opposite No.4 Lisgrogan Lane, Upperlands
Decision:
Decision Date: 16.10.2008

Ref ID: H/2008/0155/RM
Proposal: Dwelling and garage
Address: Adjacent to No.10 Lisgrogan Lane, Upperlands
Decision:
Decision Date: 16.07.2008

Ref ID: H/1999/0275
Proposal: BUNGALOW
Address: ADJ TO 10 LISGORGAN LANE UPPERLANDS MAGHERA
Decision:
Decision Date:

Ref ID: H/1999/0065
Proposal: SITE OF BUNGALOW
Address: OPPOSITE 10 LISGORGAN LANE UPPERLANDS
Decision:
Decision Date:

Ref ID: H/1994/0237
Proposal: SITE OF DWELLING
Address: ADJ TO 6 LISGORGAN LANE KILREA ROAD UPPERLANDS
Decision:
Decision Date:

Ref ID: H/2004/0821/F
Proposal: Extension to Back of House Connecting Garage.
Address: 4 Lisgrogan Lane, Upperlands, Maghera.
Decision:
Decision Date: 22.12.2004

Ref ID: H/1996/0134
Proposal: BUNGALOW AND GARAGE
Address: ADJ TO 6 LISGORGAN LANE UPPERLANDS
Decision:
Decision Date:

Ref ID: H/2007/0273/RM
Proposal: Proposed dwelling
Address: Opposite No.4 Lisgrogan Lane, Upperlands
Decision:
Decision Date: 02.08.2007

Ref ID: H/2003/0661/O

Proposal: Site of bungalow.

Address: Opposite no.4 Lisgorgan Lane, Upperlands.

Decision:

Decision Date: 18.08.2004

Ref ID: H/2008/0398/RM

Proposal: New dwelling and garage adjacent to No. 2 Lisgorgan lane, Upperlands, Maghera.

Address: Adjacent to No. 2 Lisgorgan Lane, Upperlands, Maghera

Decision:

Decision Date: 19.02.2009

Ref ID: H/2013/0360/RM

Proposal: Infill dwelling with attached garage

Address: 5m South of 141 Kilrea Road, Upperlands,

Decision: PG

Decision Date: 13.11.2013

Ref ID: LA09/2017/0837/F

Proposal: Proposed industrial unit to include display area, storage, office and ancillary facilities

Address: 24 Lisgorgan Lane, Upperlands, Maghera,

Decision: PG

Decision Date: 04.01.2018

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 06
Type: Proposed Elevations
Status: Submitted

Drawing No. 05
Type: Proposed Elevations
Status: Submitted

Drawing No. 04
Type: Floor Plans
Status: Submitted

Drawing No. 03
Type: Floor 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:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2020/0840/F	Target Date: <add date>
Proposal: Proposed dwelling and garage - infill site	Location: Adjacent to 55 and opposite 59 Coole Road Bogside Aughamullan Coalisland BT71 5DP
Applicant Name and Address: Fionntan Cullen & Niamh Carberry 200 Washingbay Road Aughamullan Coalisland BT71 4QE	Agent name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Summary of Issues: Contrary to Policy CTY 8, CTY 13 and CTY 14 of PPS 21. No representations received.	
Summary of Consultee Responses: Dfi Roads – approve with conditions	
Characteristics of the Site and Area: The site is located approximately two and a half miles east of Coalisland, adjacent to 55 and opposite 59 Coole Road. Access to the site is gained from the Coole Road, a minor rural road within proximity of the settlement of Aughamullan. The Coole Road defines the northern boundary and the eastern and western boundaries are defined by quality hedge lines. The southern boundary is undefined, opening to the remainder of the agricultural field hatched in blue indicating ownership. The site is flat throughout and there was a dwelling undergoing construction directly west of the application site. The immediate area surrounding the site appears to be quite built up in	

recent years however beyond that is rural in nature, scattered with single dwellings and associated outbuildings.

Description of Proposal

Full planning permission is sought for proposed dwelling and garage on an approved infill site.

Deferred Consideration:

This application was deferred at the planning committee in February 2021 to allow an amended design to be agreed so the dwelling is in keeping with the requirements for infill development as set out in CTY8 of PPS21 and The Rural Design Guide.

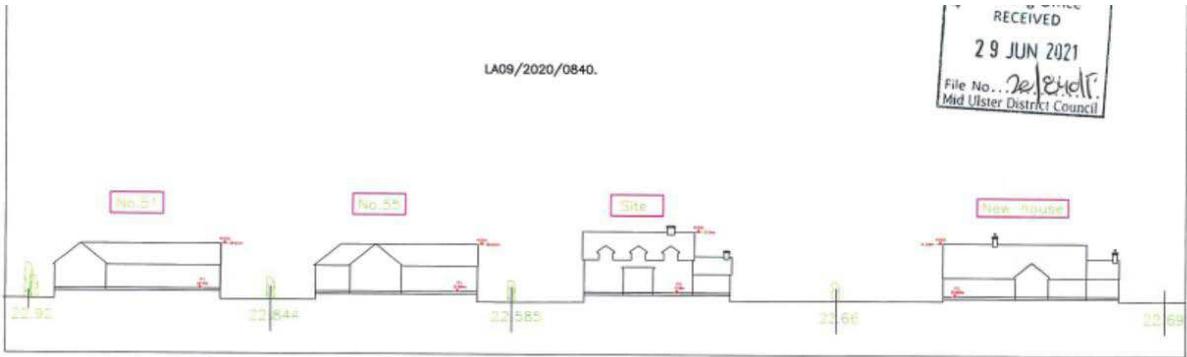
Members will be aware that infill development should respect the character of the development around it and should be in keeping in terms of size and scale. In this case there are bungalows to either side of the development and initially it was proposed to erect a 2 storey dwelling with a ridge height of 8.5m above the finished floor level of the dwelling.



This meant the new dwelling had a ridge height of over 2 metres higher than the surrounding development. The applicant has reduced the ridge height by 1 metre to 7.5m and is now proposing a 1 $\frac{3}{4}$ storey dwelling which has dormer windows protruding into the roof from the wall plate.



The dwelling is proposed to be sited behind the line of the existing bungalows. A section through the site and the adjoining development shows the proposal.



The new dwelling will still have a higher ridge than the adjacent development, however due to its set back and that it will only be 1m above the ridge height of the adjoining development, I consider it meets with the provision for infill development as set out in CTY3.

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

I recommend to the members that planning permission is granted with the conditions as set out below.

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. The development hereby approved shall not commence until the vehicular access, including visibility splays of 2.0m x 60.0m to the west and 2.0m x 33.0m to the east have been provided in accordance with Drawing No. 01/1 bearing the date stamp 29 JUN 2021. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing mature vegetation on east and west boundaries of the site shall be permanently retained.

Reason: In the interests of visual amenity and to preserve residential amenity.

4. All hard and soft landscape works as detailed on drawing no 01/1 bearing the stamp dated 29 JUN 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

5. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01/1 bearing the stamp dated 29 JUN 2021.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval LA09/2016/0007/O and is not for an additional dwelling on this site.

Signature(s):

Date



**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0840/F	Target Date:
Proposal: Proposed dwelling and garage - infill site	Location: Adjacent to 55 and opposite 59 Coole Road Bogside Aughamullan Coalisland BT71 5DP
Referral Route: Refusal – Contrary to Policies held within PPS 21.	
Recommendation:	Refusal
Applicant Name and Address: Fionntan Cullen & Niamh Carberry 200 Washingbay Road Aughamullan Coalisland BT71 4QE	Agent Name and Address: Seamus Donnelly 80a Mountjoy Road Aughrimderg Coalisland BT71 5EF
Executive Summary:	
Signature(s):	

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. There were a number of neighbours notified under this application including: 55, 57, 57A and 59 Coole Road. 61A Coole Road was hand delivered at the site visit. At the time of writing, no third party representations have been received.

Planning History

LA09/2016/0007/O - Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughmullan, Coalisland, - Dwelling and garage - PERMISSION GRANTED

Planning Assessment of Policy and Other Material Considerations

- Cookstown Area Plan 2010
- Strategic Planning Policy Statement (SPPS)
- PPS 21: Sustainable Development in the Countryside
- PPS 3: Access, Movement and Parking
- The Local Development Plan 2030 - Draft Plan Strategy
- Building on Tradition: A Sustainable Design Guide for the Rural Northern Ireland

The Cookstown Area Plan 2010 identifies the site as being in the rural countryside, located East of Coalisland.

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

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

Outline planning permission was granted for a dwelling on this infill site on 23rd February 2016 under LA09/2016/0007/O and therefore I am content that this application remains live in terms of receiving a full planning application. The principle of development on this site has already been agreed and all that remains to assess under this application is the design of the proposed dwelling and garage given that the time frame to submit a Reserved Matters application has lapsed. This proposal also would not have met the conditions on the previous planning application, which had a 6.5m ridge height condition attached to it.

The proposed dwelling is a two storey dwelling with a ridge height of approx. 8.5m and frontage of approx. 17.6m. The design of the dwelling proposed is simple and typical of that found in the countryside, however it is considered that the proposal is contrary to Policy CTY 8 of PPS 21 due to the size and scale proposed. Policy CTY 8 notes that an infill opportunity must "respect the existing pattern along the frontage in terms of size



Photograph 2 – The site shown along with the roof of the bungalow East of the site.

The Design Guide for Rural NI also refers to the importance of a suitably designed dwelling in gap sites or infill sites and notes that proposals should respect the existing houses in the ribbon otherwise they may relate poorly to them. The agent submitted supporting information including an overview of existing house types in the area and examples that he felt created a precedent to allow this proposal (shown below in figure 2). From group discussion, we felt that many of the examples shown are too far removed from the application site and it still doesn't negate the need to meet the policy requirements of CTY 8 as noted before. The map highlights again that the frontage which this infill opportunity would be read with are all bungalow dwellings. Numerous opportunities were afforded to the agent to submit an amended design, however at time of writing, no further amendments have been received.

1. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not respect the existing pattern along the frontage in terms of size and scale.

2. 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 and therefore would not visually integrate into the surrounding landscape.

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, would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date:

Ref ID: LA09/2020/0840/F

Proposal: Proposed dwelling and garage - infill site

Address: Adjacent to 55 and opposite 59 Coole Road, Bogside, Aughamullan, Coalisland, BT71 5DP,

Decision:

Decision Date:

Ref ID: M/2005/0444/O

Proposal: Proposed two storey dwelling

Address: 80m South of 59 Coole Road, Bogside, Aughamullan, Coalisland

Decision:

Decision Date: 23.09.2005

Ref ID: M/1991/0568

Proposal: Erection of dwelling

Address: ADJACENT TO 55 COOLE ROAD COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/1001/F

Proposal: Improvements/Extension to dwelling

Address: 55 Coole Road, Coalisland

Decision:

Decision Date: 16.10.2002

Ref ID: M/1984/0165

Proposal: DWELLING AND GARAGE

Address: BOGSIDE, AUGHAMULLAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1982/0149

Proposal: ERECTION OF DWELLING

Address: BOGSIDE, AUGHAMULLAN, COALISLAND

Decision:

Decision Date:

Summary of Consultee Responses

Dfl Roads: Content.

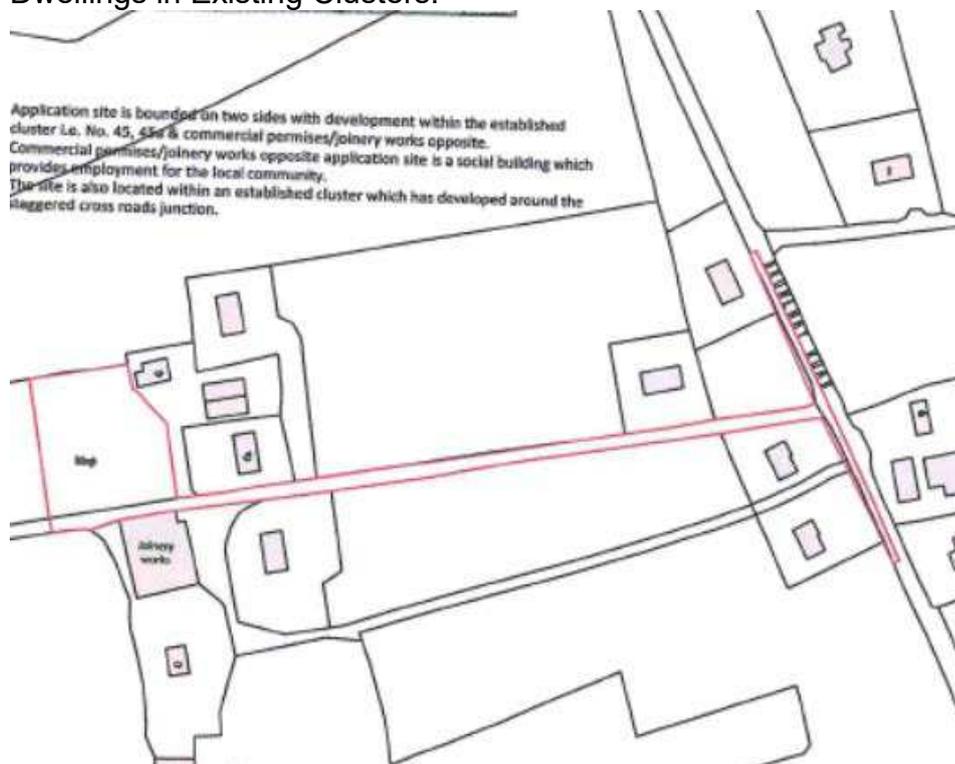
Drawing Numbers and Title



Deferred Consideration Report

Summary	
Case Officer: Emma McCullagh	
Application ID: LA09/2020/1337/O	Target Date:
Proposal: Proposed dwelling and garage under PPS 21 CTY2a	Location: 10m West of 45 Drumenny Road Ballinderry.
Applicant Name and Address: Gavin Mc Geehan 34 Munalohug Road Dungiven	Agent name and Address: C Mc Ilvar Ltd Cookstown Enterprise Centre Unit 7 Sandholes Road Cookstown
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: The site is located within the open countryside, approximately 0.3km southwest of the settlement limits of Ballinderry as defined in the Cookstown Area Plan 2010. The immediate locality has come under some significant development pressure in recent years and the surrounding area is predominantly characterised by residential properties with agricultural land and holdings also present in the wider area. The site comprises a portion of an agricultural field set back considerably from the public road with a relatively flat topography. The application seeks to utilise an existing concrete laneway on to the Drumenny Road which currently serves a number of existing dwellings and is approximately 280 metres long. Immediately south of the application site is an existing joinery business. The north, east and south boundaries of the site are defined by established trees and hedging whilst the western boundary is currently undefined. There is a small front lawn and a larger rear lawn, enclosed by a mixture of timber fence, hedgerow and mature trees.	
Description of Proposal This is an outline planning application for a dwelling and garage on lands 10m West of 45 Drumenny Road, Ballinderry.	

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 2a New Dwellings in Existing Clusters.



Deferred Consideration:

This application was presented as a refusal to Planning Committee in March 2021 for the following reasons;

Refusal Reasons

1. The proposal is contrary to the SPPS and Policy CTY 1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or it is not located at a cross-roads; and it has not been demonstrated the development would not adversely impact on residential amenity.

It was subsequently deferred for a virtual office meeting with the Area Planning Manager and a meeting was held on 11th March 2021.

Certain criteria must be met in order to meet the policy for Policy CTY2a – New dwellings in existing clusters. In the policy this states it should be a focal point 'such as' a social/community building/facility.

There must also be a cluster of development which lies outside a farm and consist of 4 of more buildings, of which at least 3 are dwellings. This excludes garages and outbuildings. I would consider this cluster has at least 3 dwellings and a Joinery works which would constitute the required number. The existing cluster appears as a visual entity in the local landscape. It is bound be development within the cluster on at least two sides.

In the policy there is no exhaustive list of what constitutes a focal point, but rather some examples are given. A focal point is considered as giving a place a 'sense of identity' and somewhere that is well known to the local community with a sense of presence, and so keeping within the spirit of the policy. I would consider the Existing Joinery workshop would fall under this (see photos of building below).



This should not be seen as setting a precedent for dwellings approved under CTY2a, but rather that is in the spirit of the policy. A dwelling on the site would not have any detrimental impact on the existing rural character of this area and it would constitute a rounding off within an existing cluster of development.

In terms of CTY13 the site has a good degree of enclosure and it is considered the existing vegetation would aid in integrating a dwelling. To ensure the dwelling is in keeping with the existing character of the area I would add a 6.5m ridge height condition.

Policy CTY14 states permission will be granted where a dwelling does not cause any detrimental change for further erode the character of the area. This site would not alter the character of the area and therefore I feel complies with this policy.

In terms of the amenity issues, Env Health were consulted due to the sites close proximity to the amenity works. A noise impact assessment was then submitted and following a re-consultation Env Health, they have no objection to the development on noise grounds.

Approval with condition is therefore recommended in this case.

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

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. Full particulars, detailed plans and sections of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to the Council and shall be carried out as approved.

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

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements 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.

5. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved, at the Reserved Matters stage. Any trees or shrubs which may be damaged or die within a period of 5 years from the date of

planting shall be replaced by plants of similar species and size at the time of their removal. All landscaping shall take place within the first available planting season after the Commencement of the development.

Reason: In the interests of visual amenity.

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

Reason: To ensure that the development is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

8. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.3 metres at any point.

Reason: In the interest of visual amenity.

Signature(s):

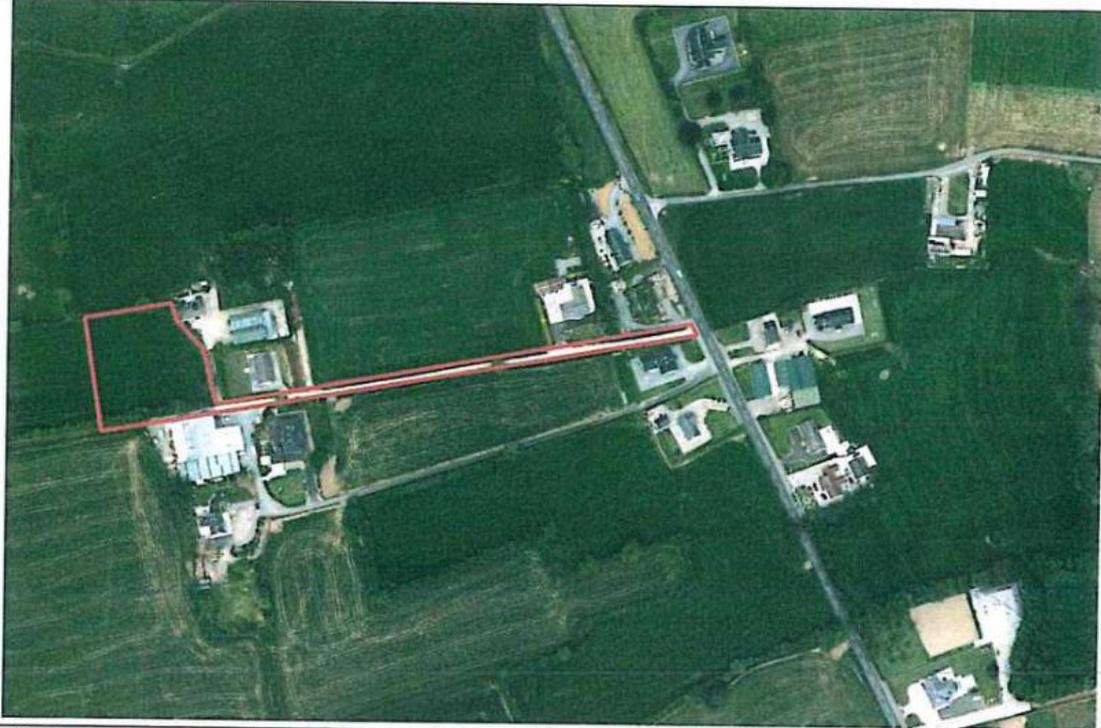
Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1337/O	Target Date: 09/02/21
Proposal: Proposed dwelling and garage	Location: 10m West of 45 Drumenny Road Ballinderry
Referral Route: Recommended refusal	
Recommendation:	Refusal
Applicant Name and Address: Gavin Mc Geehan 34 Munalohug Road Dungiven	Agent Name and Address: C Mc Ilvar Ltd Cookstown Enterprise Centre Unit 7 Sandholes Road Cookstown
Executive Summary: Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY2a of PPS21. No letters of representation received.	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Environmental Health	Additional Info Required

Representations:

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

Characteristics of the Site and Area

The site is located within the open countryside, approximately 0.3km southwest of the settlement limits of Ballinderry as defined in the Cookstown Area Plan 2010. The immediate locality has come under some significant development pressure in recent years and the surrounding area is predominantly characterised by residential properties with agricultural land and holdings also present in the wider area. The site comprises a portion of an agricultural field set back considerably from the public road with a relatively flat topography. The application seeks to utilise an existing concrete laneway on to the Drumenny Road which currently serves a number of existing dwellings and is approximately 280 metres long. Immediately south of the application site is an existing joinery business. The north, east and south boundaries of the site are defined by established trees and hedging whilst the western boundary is currently undefined. There is a small front lawn and a larger rear lawn, enclosed by a mixture of timber fence, hedgerow and mature trees.

Description of Proposal

This is an outline planning application for a dwelling and garage on lands 10m West of 45 Drumenny Road, Ballinderry.

The dwelling is being applied for under Planning Policy Statement 21, Policy CTY 2a New Dwellings in Existing Clusters.

Planning Assessment of Policy and Other Material Considerations

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

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

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

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

Representations

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

History on Site

LA09/2016/1478/F – Extension to dwelling including addition of a single storey granny annex - 45a Drumenny Road, Coagh, BT80 0BY – Permission Granted 27/01/17

I/2007/0915/F - Proposed dwelling - Adjacent to 45 Drumenny Road, Derrychrin, Coagh – Permission Granted 14/04/08

Key Policy Considerations/Assessment

Cookstown Area Plan 2010 – the site is located in the rural countryside outside any designated settlement. The site lies within the designated Lough Neagh Shore Countryside Policy Area. Plan Policy CTY 2 Countryside Policy Areas states development proposals will be determined in accordance with the provisions of prevailing regional planning policy. The plan identifies there has been significant pressure for individual dwellings in the countryside beyond the several small villages located within the area. This has resulted in the erosion of rural character through the build-up of clusters of suburban-style dwellings. The Plan considers that further ribbon development along these roads will further erode the rural character and landscape

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

The site is bound on the necessary two sides by development. To the east, the site is bound by other detached dwellings within the cluster. South of the site, a joinery works business is located which although is separated by a laneway, I consider acceptable in this occasion as it visually reads as bounding given the minimal separation distance.

- *development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and*

In my opinion, the proposed dwelling is sited within the centre of an existing cluster. The application site is set back considerably from the public road therefore views will be limited. The existing buildings within the cluster will assist in screening the proposed development and I am satisfied that the development can be absorbed into this existing cluster through consolidation of the grouping of building. I do not consider the development would significantly alter the existing character or visually intrude into the rural landscape.

- *development would not adversely impact on residential amenity.*

Given the existing screening, I do not consider a dwelling on the proposal site would have an adverse impact on residential amenity of the neighbouring properties, subject to appropriate design and siting. Council Environmental Health Department were consulted to ensure no residential impact from the adjacent factory given the proximity. Environmental Health have responded advising that having considered the proximity to an existing joinery works, there is potential for residential amenity to be adversely impacted due to the elevated levels of noise from plant and machinery associated with the business. Environmental Health requested a noise impact assessment at the development site to determine the suitability of the site for residential development. Given that I consider the proposal already fails to meet all Criteria under Policy 2a, it was not considered appropriate to request the applicant go to the expense of commissioning a noise assessment. However, should the Planning Committee consider the proposed development is acceptable and planning permission should be granted, it will be necessary to consider Environmental Health concerns further.

I do not consider that the proposed development meets all the criteria outlined under CTY2a to merit the granting of permission under this policy.

Policy CTY13 states that planning permission will be granted of a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The site has a good degree of enclosure being bound on three sides by existing mature hedging. It is considered the existing vegetation would assist in integrating a dwelling on this site and I therefore consider it appropriate to condition that the retention of existing vegetation. New landscaping will be required to the rear boundary however this is not being primarily relied upon for integration. It is noted that land rises gradually from the public road to the application site, however given the site is

quality of the area, as well as having unacceptable adverse effects on the important nature conservation interests of the Lough and its shoreline.

The Strategic Planning Policy Statement for Northern Ireland – The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. Policy CTY2a of PPS21 provides an opportunity for a new dwelling at an existing cluster of development provided all of the following criteria are met.

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

The proposal site is located outside settlement limits; however there is a high degree of development pressure in the surrounding locality. I am content that the site lies outside of a farm and there are at the required buildings and dwellings to satisfy the policy criterion. In the immediate context, to the east of the proposal site there are two dwellings, No.45 and No.45a, and south of the site there is an established joinery business and 2 further dwellings, No.47 and No.47a.

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

The site is set back approximately 270 metres from public road, however given the build-up of development in the immediate locality, directly east and south of the site, I consider when travelling on the Drumenny Road in either direction the cluster of development, which surrounds the proposal site, appears as a visual entity in the local landscape.

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

The applicant has relied on the Joinery Works business located 10 metres from the application site as the “focal point” for the purposes of meeting Policy CTY2a. It is not considered a small scale, privately owned joinery business represents a social/community building/facility. The site is not located at a cross-roads, the agent has referred to a staggered cross-roads junction east of the application site. Private laneways to residential dwellings are not considered a cross-roads. It is noted that the junction with the Gort Road is located some 270 metres from the application site but this is not a staggered cross-roads, nor is this where the application site is located.

considerably set back in my opinion a dwelling and garage would successfully visually integrate into the surrounding landscape.

Policy CTY 14 states that planning permission will 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. The proposal site has an adequate degree of enclosure and natural screening and I do not consider the addition of a single dwelling on the site will detrimentally alter the rural character of this area. The surrounding area already has a significant degree of development pressure and suburban style of development, the granting of planning permission on the site would not adversely change the rural character of the area or provide further development opportunities through infilling therefore I consider it complies with CTY14.

PPS 3: Access, Movement and Parking - The application site seeks to use an existing access on to Drumenny Road. DfI Roads have been consulted and have raised no objections to the proposal subject to conditions. Therefore, it is considered a dwelling on the site will not prejudice road safety or significantly inconvenience the flow of traffic and accords with Policy AMP2 of PPS3.

Neighbour Notification Checked

Yes

Summary of Recommendation:

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

Reasons for Refusal:

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point or it is not located at a cross-roads; and it has not been demonstrated the development would not adversely impact on residential amenity.

Signature(s)

Date:



Deferred Consideration Report

Summary	
Case Officer: Melvin Bowman	
Application ID: LA09/2020/1549/F	Target Date:
Proposal: Football stand to cover existing stepped terrace.	Location: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB.
Applicant Name and Address: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB	Agent name and Address: Michael Jordan 16 Albert Street Aberdeen AB25 1XQ
Summary of Issues: local objection to proposal / reconsideration following member's site visit.	
Summary of Consultee Responses: No objections	
Characteristics of the Site and Area: Open raised spectator terrace within ground of Eglish GAC. Residential dwellings abutting rear boundary of the proposal. Existing concrete wall forming the shared boundary between the 2 land uses and rear private garden areas.	
Description of Proposal Football stand to cover existing stepped terrace.	



Deferred Consideration:

Members at the July 2021 meeting of the Planning Committee decided to visit the site with both the applicant and objectors present. This meeting took place on Fri 23rd July 2021.

Members along with a number of residents and a representative of the Club were provided with the opportunity to examine the precise location of the covered stand, to see the relationship between the stand and adjoining property and to visit the alternative position that has been referred to in written objection received so far to the application.

The position of the proposed covered stand was identified on the terrace and in relation to concerns expressed by some present about the consequences of any stand becoming larger or built in a different location, I clarified that this would require a further planning permission which would involve the inclusion of neighboring property as notifiable residents. Residents raised the attraction of the covered area for increased anti-social behavior and stated it was not local youths which were gathering. This led to wider discussion on anti-social behavior within the context of the wider village and the attempts made to address this. Some discussion took place about the accessibility of the stand for disabled visitors and its remoteness from the other more easily accessible side of the pitch where the alternative location has been promoted by residents. It was clarified by Mr Daly (Club) that the sides of the covered area would remain open and residents felt this permitted too easy access for antisocial gatherings. When discussion turned to how youths gained entry to the pitch and terrace residents stated that some of this occurred from behind the existing wall along the back of the terrace – it emerged that these were abutted by private gardens and it was also agreed that we would visit these to look at this. There is no other public access along the rear of the terrace.

We agreed to visit the rear of Nos 13 /14 Roan Close with just those residents whilst the remaining residents waited in the club grounds. To the rear of No 14 it was argued that youths on occasion gain entry to the grounds via their rear garden and scale the wall. I put it to the residents that this appeared to me to be a matter of trespass and it wasn't an unreasonable point to make that there could be measures taken to prevent this. I wasn't able to answer any queries on liability should a person scaling the wall become injured.

It was claimed that Bats are using the tree in the corner of the garden. A further written objection has since been received relating to this specific issue which I will address later in this report. We all agreed that the tree was itself was not at risk from the covered area.

The purpose of entering No 13 was less about unauthorized access which doesn't tend to occur due to the side garage but more the outlook and loss of view. Members were reminded at this point about the overall increase of the stand above the concrete wall and its span away from these gardens towards the pitch.

We returned to the grounds to visit the location of the alternative site. Mr Daly referred to the ROW enjoyed by Barratt's concrete to a water source running along the recently concreted access between this piece of ground and the pitch. Some disagreement followed about the need for heavy vehicular access using this with residents claiming this wasn't required. Mr Daly indicated that a WTW was below the plot and this was a further impediment to this side. It has been and was claimed that this could be addressed by those offering to fund this alternative location. Members asked about how a stand here would affect crowd capacity / it would facilitate up to approx 1500 according to Mr Daly.

Before concluding residents emphasized that the Club had not engaged with them and thanked planning for making this happen. I explained how the request for a site visit by members had been agreed. I asked if everyone present was content that we had covered the issues of concern to which there was general agreement.

Having viewed for myself the situation and shared boundary relationship between the pitch and the terrace and the position of adjoining residential property I do not find that the proposal is likely to increase or cause any loss of amenity to the extent that this application should be refused. It is an improvement over an earlier proposal and I therefore have no reason to adopt a different view that the case officer set out in his original report to the planning committee.

In addition, a formal consultation was sought from our Environmental Health Dept in response to concerns raised by residents to which a reply issued on 7 July 2021 stating the following:

This application for a football stand to cover existing stepped terracing has been considered along with the letters of objection and we would comment as follows;

The proposal seeks to erect an additional precast concrete wall between the stand and adjacent residential properties located to the rear of the stand at Roan Close. This wall,

along with the attached Kingspan roof, will offer increased mitigation of noise compared to the existing open terrace.

Provided the proposed terrace is built to current standards then we do not see any reason for noise or vibration due to wind.

In relation to the additional objection referring to bat activity around what appears to be an isolated tree along the rear boundary of No 14, it is my view that the proposed development will not impact on the canopy given its position relative to this tree and its crown spread. The tree does not represent a typical linear feature associated with a flight path more associated with bat activity.

The objection received on the 22 July from Roan residents requests that a Bat Survey be undertaken / that a mitigation plan be compiled/ that these are incorporated into the planning application and that monitoring take place.

In dealing with previous applications where bat activity has been required to be assessed it is my understanding that bats use woodland edges, hedgerows, rivers and other linear features like tree-lined footpaths as corridors to commute from one area of countryside to another. These features act as navigational landmarks and can also provide some protection from predators. As bats fly through the night, their echolocation calls bounce off these landscape features, helping the bats find their way to and from their roosts and foraging habitats. In this instance I do not feel that a formal consultation with NIEA is necessary.

Conditions: Development to commence within 5yrs of the date of permission.

Signature(s): M.Bowman

Date: 23 Aug 2021



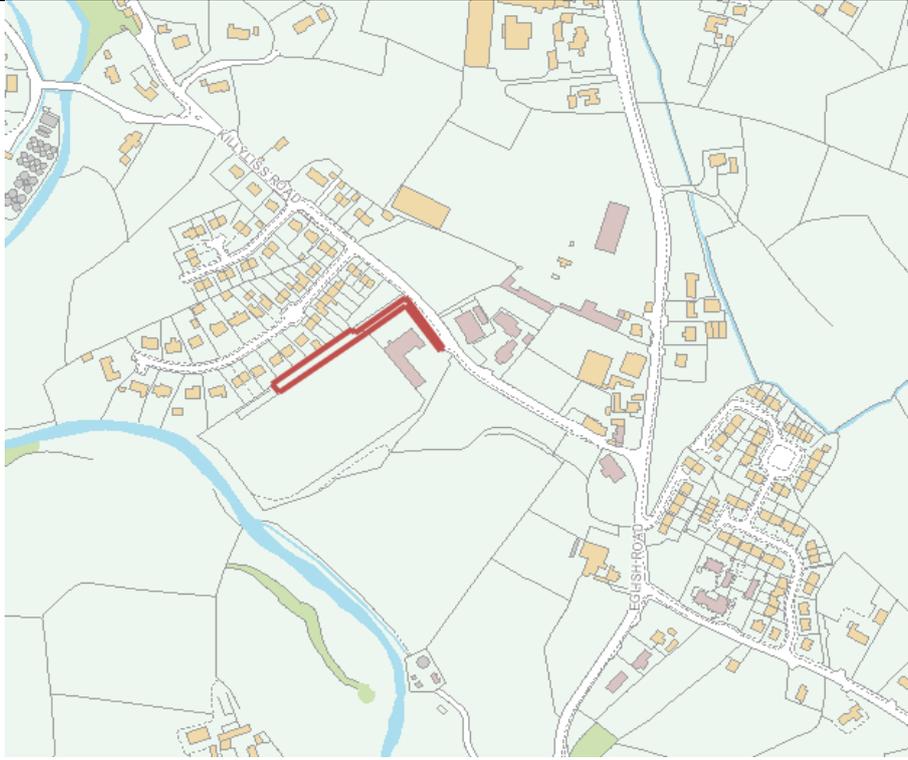
Comhairle Ceantair
Lár Uladh
Mid Ulster
 District Council

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/1549/F	Target Date:
Proposal: Football stand to cover existing stepped terrace.	Location: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB.
Referral Route: Objections received	
Recommendation:	Approval
Applicant Name and Address: Eglish GAC 108 Killyliss Road Eglish Dungannon BT70 1NB	Agent Name and Address: Michael Jordan 16 Albert Street Aberdeen AB25 1XQ
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

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

Representations:

Letters of Support	None Received
Letters of Objection	34
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

Summary of Issues

Objector concerns

- Visually intrusive impact.
- Eye sore/loss of views.
- Blocking natural light
- Loss of privacy
- Noise nuisance/vibrations
- Health and safety concerns
- Encourage gathering of youth/anti-social behaviour
- Devaluation of property
- Alternative viable option
- Draw larger crowds
- Increased traffic congestion
- Parking issues/emergency service vehicles hindered

- Road safety issues

Characteristics of the Site and Area

The site lies within the settlement limits of Eglish and outside all other areas of constraint as depicted by the DSTAP 2010. It is located at number 108 Eglish Road and forms part of Eglish GAC grounds.

The red line of the site is a long narrow L shaped plot which includes an access from the main entrance, follows the roadside eastern boundary and then runs along the rear of Roan Close taking in the terraced standing area along the Northern part of the GAC grounds.



There is a 2metre wall all along the northern boundary of the site separating it from the dwellings in Roan Close. The main body of the site comprises the concrete steps used by spectators for watching games. The playing field is to the south and the club house and car parking is to the east. The Oona River is to the south west of the site and the St Patricks Church to the south east. The local primary school is just a short distance to the East.

Description of Proposal

The proposal seeks full planning permission for the erection of a football stand to cover the existing terrace.



Planning Assessment of Policy and Other Material Considerations

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Dungannon and South Tyrone Area Plan
- PPS8 - Open Space, Sport and Outdoor Recreation

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

Until a Plan Strategy for the whole of the Mid Ulster Council Area has been adopted, planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the Strategic Planning Policy Statement (SPPS). This overarching policy 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 states that planning authorities should carefully consider development proposals for all sport and outdoor recreational activities, considerations will include: location, design, hours of operation, noise, impact upon visual and residential amenity, access and links to public transport; floodlighting; landscaping, public safety (including road safety); nature conservation, biodiversity, archaeology or built heritage.

Representations

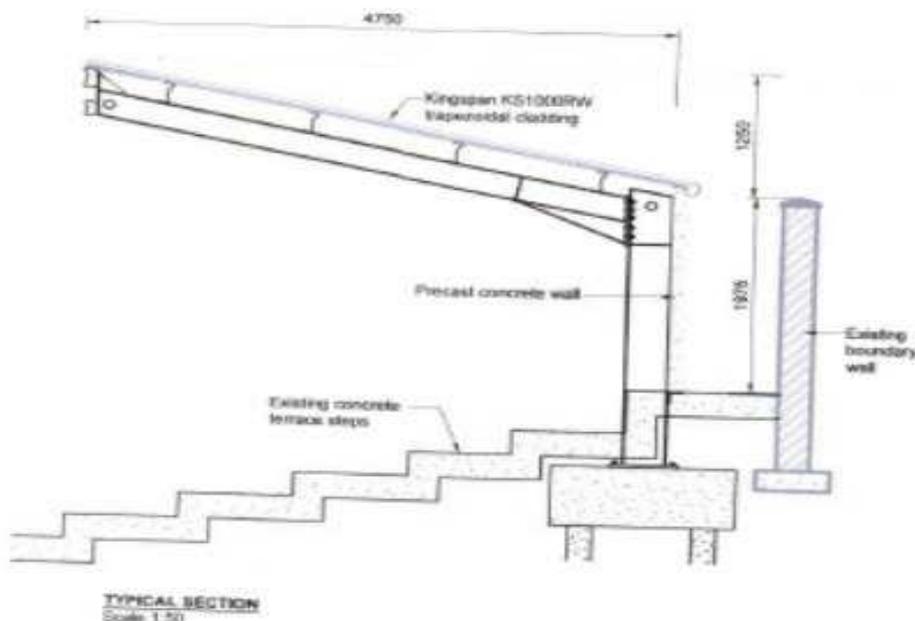
Press advertisement and neighbour notification has been carried out in line with the Council's statutory duty. At the time of writing, there have been 34 objections from neighbouring residents of Roan Close, Roan Park, Killyliss Manor and Killyliss Villas.

Objector concerns

- Visually intrusive impact.
- Eye sore/loss of views.
- Blocking natural light
- Loss of privacy
- Noise nuisance/vibrations
- Health and safety concerns
- Encourage gathering of youth/anti-social behaviour
- Devaluation of property
- Alternative viable option
- Draw larger crowds
- Increased traffic congestion
- Parking issues/emergency service vehicles hindered
- Road safety issues

Consideration of objections.

To consider the first concern regarding the visual impact of the stand, eye sore and loss of views it is important to look at the position and size of the proposed stand. The proposed stand at its closest point is 1metre from the boundary wall to the rear gardens of the dwellings in Roan Close. The stand measures 2 metres at the low point and rises another metre over the 5 metre span of terrace it is proposed to cover. The rear wall existing is 1.975 metres high therefore there will be very minimal visual impact or intrusion of views.



From the above drawing it is also clear there will be little of no impact on natural light, the stand will not raise the standing platform for spectators so there should be very minimal impact on loss of privacy.

With regards to noise or vibrations nuisance, after the initial period of construction there should be no greater noise, the terrace area will not be any larger, therefore no greater crowd can be facilitated and in fact the stand should act as a barrier for noise travelling toward the residents to the rear.

The next concern raised is over the possibility the stand may encourage anti-social behaviour through acting as a gathering spot for youths, also the possibility of health and safety concerns via attempting to climb the structure. It must be noted that there are no measures preventing climbing of the existing wall, or buildings on the grounds and there is no reason to suggest that the new stand would be any different. The existing grounds have suffered with some issues with anti-social behaviour in recent times, however we must assess the application at face value and in doing so, I find no reason why a relatively stand to cover existing terrace would have any negative impact on the area. Matters of any potential for anti-social behaviour arising from the development is a matter for the management of the Football Club to resolve.

De valuation of house prices is not a material consideration for planning.

The alternative viable option has also been raised whereby the objectors feel that a stand on the other side of the pitch would be a solution, however, if the proposal complies with policy the council cannot force an alternative siting, in addition the red line does not include the whole of the grounds. Also the main reasoning for the proposal is to cover the existing terraced area at this position. There is no existing terrace on the other side.

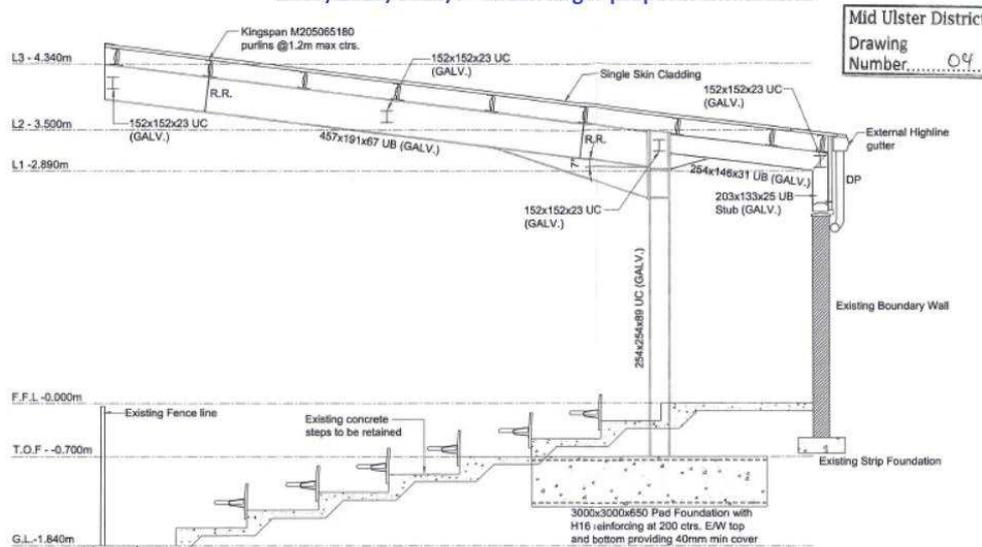
The last four points can be covered in one discussion, potentially drawing a larger crowd, increase traffic, parking issues, road safety issues and hindrances to emergency vehicles. It is essential to note that this proposal is for a stand to cover the existing terrace, the terrace cannot hold any more spectators as the terrace is not increasing in size, therefore there will be no impact on traffic, parking or road safety. DFI Roads were consulted and concurred, they responded 'the proposed works are all internal and don't seem to impact on current in curtilage parking / servicing arrangements. DFI Roads are therefore content with the proposal.'

Planning History

LA09/2015/0644/F - Opposite no 144 Killyliss Road - Refurbishment and extension to existing community sports and arts centre to provide additional storage and toilet accommodation – GRANTED - 12.10.2015

LA09/2015/0680/F - Opposite 144 Killyliss Road, Eglishe - Provision of covered spectator accommodation – WITHDRAWN - 23.06.2016

LA09/2015/0680/F - Much larger proposal withdrawn.



This application site lies within the settlement limits of Eglish as defined in the Dungannon and South Tyrone Area Plan (DSTAP) and development is therefore to be considered under SETT 1. In DSTAP 2010 the site is zoned as an area of Existing Recreation and Open Space which means it will be safeguarded for open space and outdoor recreational use in accordance with PPS 8 - Open Space, Sport and Outdoor Recreation.

PPS 8 Open space Sport and Outdoor Recreation

It is the view of the Council that there is no exact fit policy for assessing this application however, this is a 'larger scale' development within the settlement limits in an area designated as open space and it would amount to an 'intensive sports facility' and effectively a 'sports stand'; both of which are referred to in policy OS4.

The justification to this policy explains that intensive sports facilities include stadia, sports halls, etc. It suggests that such facilities often serve as a focus for the community and experience would suggest that football clubs often do just that.

As such the application has been assessed most appropriately against Policy OS 4.

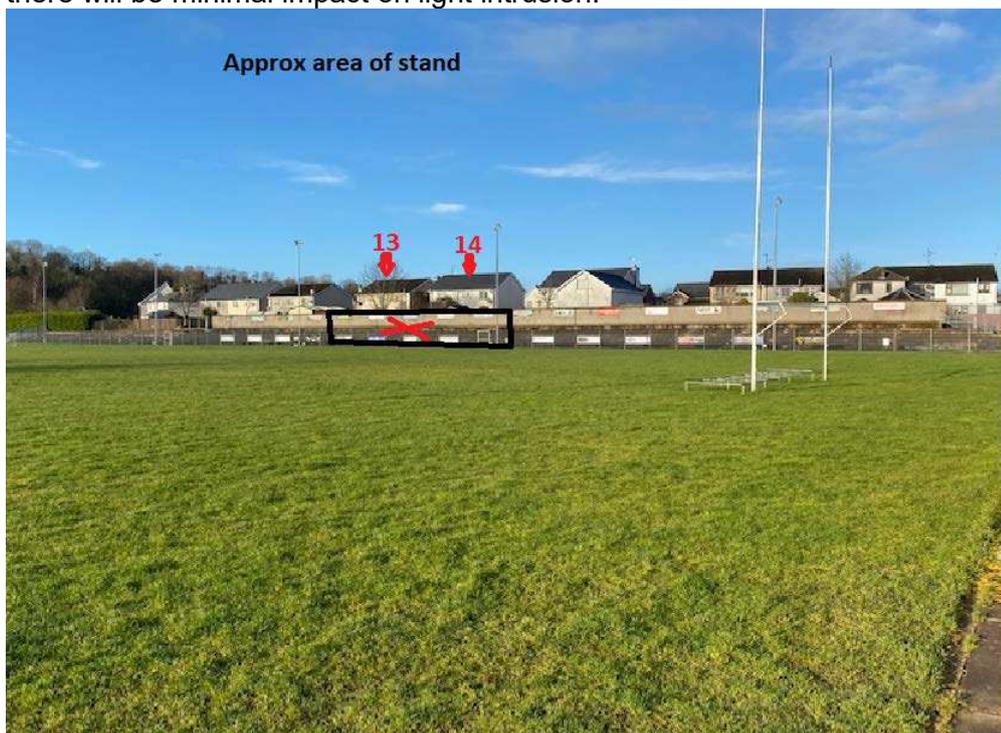
Policy OS 4 Intensive Sports Facilities

The Mid Ulster Council will only permit the development of intensive sports facilities including stadia, where these are located within settlements.

In all cases the development of intensive sports facilities will be required to meet all the following criteria:

- there is no unacceptable impact on the amenities of people living nearby by reason of the siting, scale, extent, frequency or timing of the sporting activities proposed, including any noise or light pollution likely to be generated;

Policy requires no unacceptable impact on the amenities of people living nearby. Objectors have raised issue with the potential of noise from the proposed stand. The nearest properties at numbers 13 and 14 Roan Close back directly onto the proposed site and the distance between the proposed structure and the nearest part of the dwelling would be 14 metres, and the nearest part of the stand will be same height as the rear boundary wall of these properties therefore there will be minimal impact on light intrusion.



In addition the proposal is to cover the existing terraced area, there will be no increase in area or capacity therefore minimal increase in noise is expected. The noise resulting from the football grounds existing is not be continuous but rather limited to mostly evening and weekends and this taken together with the existing background noise of the Killyliss road and surrounding land uses will limit any potential increase in noise levels having an adverse impact on neighbouring residential amenity. The proposal will also have no impact on frequency or timing of the sporting activities. There may be some noise nuisance during the construction phase, however, this can be conditioned to working hours and is expected to take a short period of time.

Matters of any potential for anti-social behaviour arising from the development is a matter for the management of the Football Club to resolve.

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

The proposal involves covering an area which consists of a hardstanding stepped terrace. There are no natural features or hedgerows to be removed or altered, there will be minimal views from the main road due to positioning of the existing facilities,

There is minimal potential for adverse effects on natural environment and all works can be accommodated without detriment to the character of the area. There are no features of Arch or built heritage in the vicinity of the site.

- buildings or structures are designed to a high standard, are of a scale appropriate to the local area or townscape and are sympathetic to the surrounding environment in terms of their siting, layout and landscape treatment;

Policy requires ancillary buildings or structures to be of a scale appropriate to the local area and sympathetic to the surrounding environment. The existing layout shows a clubhouse, car park, football pitch and 140 metre long terrace area. The proposal is to cover a 35 metre portion of the terrace with a 5 metre deep stand to protect spectators from the elements. The stand will be composed of Kingspan Metal cladding which is common in these types of development and would not look out of place at any football ground. It is important to note that there was a much large proposal sought in 2015 which was subsequently withdrawn. The scale of this stand is not excessive for the site and can be accommodated without detriment to the surrounding rural environment. The position is to the North of the pitch and the nearest part of the stand will be over 100metres from the main road to the east.

- the proposed facility takes into account the needs of people with disabilities and is located so as to be accessible to the catchment population giving priority to walking, cycling and public transport;

The proposal is located within easy reach of public transport and bus stops are located nearby. This proposal is for a cover only and will have no significant impact on the needs of disabled people.

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

Objectors have raised issue regarding possibility for increased traffic congestion, however, this proposal does not involve increasing the capacity of the grounds nor will it allow more people to attend events or games, as such there is no expected increase in car users and therefore no impact on the areas ability to cope with the existing traffic generated by this GAC facility. Also road safety issues were raised. There is no evidence to suggest that public safety could be prejudiced by this proposal and the nature, scale, extent and frequency of use proposed do not

render the development incompatible with the surrounding character. DfI Roads are the responsible authority for roads safety and they have been consulted and they have responded stating that they have no roads safety concerns.

Plan Policy SETT 1 states favourable consideration will be given to development proposals within settlement limits including zoned sites provided the following criteria are met;

- The proposal is sensitive to the size, character and function of the settlement in terms of scale, form, design and use of materials;

The proposal is for a small stand is sensitive to the existing grounds of Eglishe GAC in terms of its size and scale, and compliments the function of the facility.

- The proposal respects the opportunities and constraints of the specific site and its surroundings and, where appropriate, considers the potential for the creation of a new sense of place through sensitive design;

The site is zoned for open space and this proposal compliments that in that it provides protection from the elements for spectators availing of the facilities.

- There is no significant detrimental effect on amenities;

This has been covered in depth in the above report, it is my opinion that there will be minimal impact on the amenities.

- There is no significant conflict with recognised conservation interests;

There are no conservation issues or concerns.

- There are satisfactory arrangements for access, parking and sewage disposal;

Satisfactory access parking and sewerage arrangements are in place and this proposal for a stand will have no impact on this. DFI were consulted and had no concerns.

- Where appropriate, any additional infrastructure necessary to accommodate the proposal is provided by the developer;

No additional infrastructure is necessary.

- the proposal is in accordance with prevailing regional planning policy and policies, requirements and guidance contained in Part 3 of the Plan.

The proposal is in compliance with the overarching regional planning policies and guidance.

Conclusion

Taking into account the Area Plan, planning policy, consultee responses and representations received on the application and all other material planning considerations approval is recommended subject to conditions. Approval subject to conditions

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.

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. 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 Councils 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 Infrastructures 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.

Provision shall be made to the satisfaction of DFI Roads Service, to ensure that surface water does not flow from the site onto the public road.

Provision shall be made to the satisfaction of DFI Roads Service, to accommodate the existing roadside drainage and to ensure that surface water does not flow from the public road onto the site.

Signature(s)

Date:

ANNEX	
Date Valid	4th December 2020
Date First Advertised	15th December 2020
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 1 Roan Close, Dungannon, BT70 1NE</p> <p>The Owner/Occupier, 1 Roan Park Dungannon Tyrone C Murtagh 10 Roan Park, Dungannon, BT70 1NB</p> <p>The Owner/Occupier, 10 Roan Park, Dungannon, BT70 1NB Bronagh Murtagh</p> <p>11 Roan Park, Dungannon, BT70 1NB</p> <p>The Owner/Occupier, 11a ,Roan Close, Dungannon, Tyrone, BT70 1NE Stephen and Sandra McMenemy</p> <p>11a Roan Close, Dungannon, BT70 1NE Stephen and Sandra McMenemy</p> <p>11a Roan Close, Dungannon, BT70 1NE</p> <p>The Owner/Occupier, 11b ,Roan Close, Dungannon, Tyrone, BT70 1NE Eithne Nugent</p> <p>11b Roan Close, Dungannon, BT70 1NE AnneMarie & Benny Donnelly</p> <p>12 Roan Close, Dungannon, BT70 1NE</p> <p>The Owner/Occupier, 12 Roan Close, Dungannon, Tyrone, BT70 1NE D Barclay</p> <p>12 Roan Park, Dungannon, BT70 1NB Brian & Tracey Goodfellow</p> <p>13 Roan Close, Dungannon, BT70 1NE</p> <p>The Owner/Occupier, 13 Roan Close, Dungannon, Tyrone, BT70 1NE Martin & Brenda Gallen</p> <p>14 Roan Close, Dungannon, BT70 1NE</p> <p>The Owner/Occupier, 14 Roan Close, Dungannon, Tyrone, BT70 1NE L, Gallagher</p> <p>14 Roan Park, Dungannon, BT70 1NB Terry & Brenda Horsfield</p> <p>15 Roan Close, Dungannon, BT70 1NE</p> <p>The Owner/Occupier, 15 Roan Close, Dungannon, Tyrone, BT70 1NE</p>	

Erin & Niall Hanratty
16 Roan Park, Dungannon, BT70 1NB
Jack Burns
17 Roan Park, Dungannon, BT70 1NB
Paula Nicholl
1a Roan Close, Dungannon, BT70 1NE
P Hegarty
2 Killyliss Manor, Eglis, Dungannon, BT70 1UP
Corey Murtagh
2 Killyliss Villas, Dungannon, BT70 1LE
Maureen Gildernew
2 Roan Close, Dungannon, BT70 1NE
The Owner/Occupier,
2 Roan Park Dungannon Tyrone
Shane Goodfellow
2 Roan Park, Dungannon, BT70 1NB
S. Murtagh
3 Killyliss Manor, Eglis, Dungannon, BT70 1UP
Gael Bradley
3 Killyliss Villas, Dungannon, BT70 1LE
The Owner/Occupier,
3 Roan Park Dungannon Tyrone
P Fox
3 Roan Park, Dungannon, BT70 1NB
Aine Kelly
4 Roan Close, Dungannon, BT70 1NE
The Owner/Occupier,
4 Roan Park Dungannon Tyrone
Mary T & F Goodfellow
4 Roan Park, Dungannon, BT70 1NB
The Owner/Occupier,
5 Roan Park Dungannon Tyrone
Owner/ Occupier
5 Roan Park, Dungannon, BT70 1NB
Kelley Cuddy
5a Roan Close, Dungannon, BT70 1NE
. McVeigh
6 Roan Close, Eglis, Dungannon, BT70 1NE
The Owner/Occupier,
6 Roan Park Dungannon Tyrone
Ciara Corrigan
7 Roan Close, Dungannon, BT70 1NE
The Owner/Occupier,
7 Roan Park Dungannon Tyrone
Edel Toye
8 Roan Close, Dungannon, BT70 1NE
Imelda Fay
8 Roan Park, Dungannon, BT70 1NB
The Owner/Occupier,
8 Roan Park,Dungannon, BT70 1NB

<p>The Owner/Occupier, 9 Roan Park Dungannon Tyrone C Murtagh 9 Roan Park, Dungannon, BT70 1NB The Owner/Occupier, Eglish Parochial Hall, Killyliss Road, Dungannon, Tyrone, BT70 1LE Brenda Gallen & Tracey Goodfellow No Address The Owner/Occupier, No Email/address Given The Owner/Occupier, No Email/address Given</p>	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	No
Planning History	
<p>Ref ID: LA09/2020/1549/F Proposal: Football stand to cover existing stepped terrace. Address: Eglish GAC 108 Killyliss Road, Eglish, Dungannon BT70 1NB., Decision: Decision Date:</p> <p>Ref ID: M/1997/0368 Proposal: Extension to Sports Complex to provide 2 No. Changing Rooms and a Fitness Suite Address: 109 KILLYLISS ROAD EGLISH DUNGANNON Decision: Decision Date:</p> <p>Ref ID: M/1997/0503 Proposal: Proposed Spectator Canopy at Fr. Connolly Park Address: 109 KILLYLISS ROAD EGLISH DUNGANNON Decision: Decision Date:</p> <p>Ref ID: M/1974/0243 Proposal: EXTENSION TO EXISTING FOOTBALL PAVAILION, PROVISION OF GAMES HALL Address: ROAN, EGLISH, DUNGANNON Decision: Decision Date:</p> <p>Ref ID: M/1974/024301 Proposal: ERECTION OF SOCIAL AND COMMUNITY CENTRE Address: ROAN, EGLISH</p>	

Decision:
Decision Date:

Ref ID: LA09/2015/0644/F

Proposal: Refurbishment and extension to existing community sports and arts centre to provide additional storage and toilet accommodation

Address: Opposite no 144 Killyliss Road, Eglish, Dungannon,

Decision: PG

Decision Date: 12.10.2015

Ref ID: M/2007/0861/O

Proposal: Proposed Housing Development including roads improvements to Killyliss Road, Killyliss/Eglish Road junction and proposed private foul water treatment plant.

Address: Land immediately east of and adjoining Roan Park & Roan Close, Killyliss Road, Eglish Dungannon

Decision:

Decision Date: 23.11.2007

Ref ID: LA09/2015/0680/F

Proposal: Provision of covered spectator accommodation

Address: Opposite 144 Killyliss Road, Eglish, Dungannon,

Decision: WITHDR

Decision Date: 23.06.2016

Drawing Numbers and Title

Drawing No. 02
Type: Proposed Plans
Status: Submitted

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

Drawing No. 03
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: LA09/2021/0053/F	Target Date:
Proposal: Change of house type from approved under I/2008/0439/F	Location: Approx 120m East of 24 Muntober Road Cookstown
Applicant Name and Address: Mr Daniel Ward 60 Blackrock Road Cookstown BT80 9PA	Agent name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Summary of Issues: <p>This is an application for a proposed change of house type from planning application I/2008/0439/F. However, it was deemed development had not commenced on site in line with the approval and the previous approval subsequently expired on the 14th November 2010. Following a further site visit and submission of evidence by the agent, approval is now recommended as it is accepted that development commenced in line with the approval.</p>	
Characteristics of the Site and Area: <p>The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is located approximately 90m east of the Muntober Road, with the site siting at a lower level than that of the road. The site is currently an agricultural field, at the time of the site visit there were horses within the site. The surrounding area is agricultural in nature, with a limited number of single dwellings within the countryside. At the location where the dwelling is to be sited there is currently overgrown vegetation and what appears to be a small, derelict agricultural building.</p> <p>Representations No third party representations have been received in relation to this planning application</p>	

Description of Proposal

This is a full planning application for a change of house type from approval I/2008/0439/F.

Site History

I/2004/0900/O- Approx 120m East of 24 Muntober Road, Cookstown. Dwelling & garage.
PG 10.11.2004

I/2008/0439/F- Approx 120m East of 24 Muntober Road, Cookstown. Proposed erection of single private dwelling & garage. PG 14.11.2008.

LA09/2020/0123/CA- Approx. 120m East Of 24 Muntober Road, Cookstown. Fence not built in accordance with approved plans. Negotiate to resolve.

Deferred Consideration:

This application was presented as a refusal to Committee in April 2021 for the following reason;

'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'.

It was subsequently deferred for a virtual office meeting held with the Area planning Manager on 22nd April 2021 and it was agreed the senior officer would re-visit the site.

The issue was that the site access was never implemented at the site as required nor was a material start made on the approval. Also when the previous case officer carried out the site visit it was in snowy conditions making the access and founds even more difficult to uncover.

Following a further site visit by the senior officer, it was clear the site was very overgrown and foundations were not easily to be found, the agent ensured the vegetation was then cut back and the foundations and concrete exposed to show that the approval has been implemented in line with approval and the pre-commencement conditions. The sight lines and access were in place on site in accordance with the previous approval.



There had been no issues with the COHT application, except for establishing if development had commenced. As this has now been proven I recommend approval.

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

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 permission granted is solely as a substitute for the permission for a dwelling previously granted on the site under the reference: I/2008/0439/F and only one dwelling shall be constructed on 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 14TH June 2021 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. The permission hereby Approved should be read in conjunction with conditions No. 2 and 3 of decision notice I/2008/0439/F

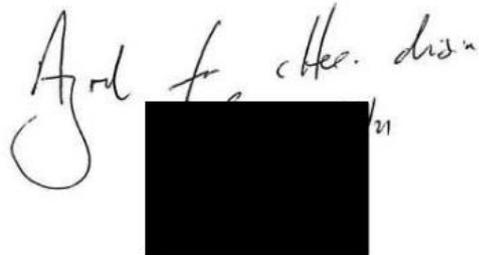
Reason: To ensure that all other conditions of the previous approval are adhered to.

Signature(s):

Date

Development Management Officer Report Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0053/F	Target Date:
Proposal: Change of house type from approved under I/2008/0439/F	Location: Approx 120m East of 24 Muntober Road Cookstown
Referral Route: Refusal- contrary to the SPPS and Policy CTY1 of Planning Policy Statement 21.	
Recommendation:	Refusal
Applicant Name and Address: Mr Daniel Ward 60 Blackrock Road , Cookstown BT80 9PA	Agent Name and Address: CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
Executive Summary:	
Signature(s):	



 And for the dis


Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	

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

This is an application for a proposed change of house type from planning application I/2008/0439/F. However, the site access was never implemented at the site as required nor was a material start made on the approval. The previous approval subsequently expired on the 14th November 2010.

Characteristics of the Site and Area

The site is located within the open countryside, outside any defined settlement limits as per the Cookstown Area Plan 2010. The site is located approximately 90m east of the Muntober Road, with the site siting at a lower level than that of the road. The site is currently an agricultural field, at the time of the site visit there were horses within the site. The surrounding area is agricultural in nature, with a limited number of single dwellings within the countryside. At the location where the dwelling is to be sited there is currently overgrown vegetation and what appears to be a small, derelict agricultural building.

Representations

No third party representations have been received in relation to this planning application

Description of Proposal

This is a full planning application for a change of house type from approval I/2008/0439/F.

Site History

I/2004/0900/O- Approx 120m East of 24 Muntober Road, Cookstown. Dwelling & garage. PG 10.11.2004

I/2008/0439/F- Approx 120m East of 24 Muntober Road, Cookstown. Proposed erection of single private dwelling & garage. PG 14.11.2008.

LA09/2020/0123/CA- Approx. 120m East Of 24 Muntober Road, Cookstown. Fence not built in accordance with approved plans. Negotiate to resolve.

Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

Local Development Plan 2030 - Draft Plan Strategy

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. It notes the importance of sustainable development in the countryside which promotes high standards in the design, siting and landscaping.

The principle of development was agreed under the previous application. Permission was granted for a dwelling and garage on 14th November 2008. This approval had a condition attached which required the development hereby permitted shall be begun before the expiration of 2 years from the date of this permission. Therefore, the previous approval granted required development to have commenced on site before 14th November 2010.

The second condition attached required the vehicular access, including visibility splays and any forward sight lines to be provided in accordance with approved plans, prior to the commencement of any works or other development hereby permitted.

Following a site visit, it was unclear if foundations had been put in place, to indicate a material start of the planning approval. Following a discussion with the agent, a document from Building Control was submitted indicating a number of site visits, with the first being 10th November 2010 where partial works to excavate foundations had begun, but had been rejected by building control. No further information or evidence has been provided to show foundations had been poured on site to indicate a material start on the planning approval.

It was clear that the access was not provided in accordance with the approved plans and appears to have not been implemented at any stage. Where the access should be located there is a post and wire fence separating the agricultural field and the public road. Therefore, the previous approval I/2008/0439/F has lapsed as condition 1 and 2 have not be complied with and this application cannot be considered as a change of house type.

For completeness, the design of the proposed change of house type will be also be assessed.

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that the proposed dwelling would not be a prominent feature in the landscape as it has established mature boundaries that will allow it to be adequately screened. I am content the design of the dwelling is appropriate for the site and its locality.

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. I am content the proposed change of design would not cause a detrimental change to, or further erode the rural character of the area. It is considered that the proposal would not create or add to a ribbon of development.

Other Material Considerations

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

Neighbour Notification Checked

Yes/No

Summary of Recommendation:

Refusal

Reasons for Refusal:

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

Signature(s)

Date:

ANNEX	
Date Valid	14th January 2021
Date First Advertised	26th January 2021
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	
<p>Ref ID: LA09/2021/0053/F Proposal: Change of house type from approved under I/2008/0439/F Address: Approx 120m East of 24 Muntober Road, Cookstown, Decision: Decision Date:</p> <p>Ref ID: I/2008/0439/F Proposal: Proposed erection of single private dwelling & garage Address: Approx 120 metres east of 24 Muntober Road, Cookstown BT80 9LW Decision: Decision Date: 18.11.2008</p> <p>Ref ID: I/2004/0900/O Proposal: Dwelling & garage Address: Approx 120m East of 24 Muntober Road, Cookstown Decision: Decision Date: 10.11.2004</p>	
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
Notification to Department (if relevant)
Date of Notification to Department: Response of Department:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0116/O	Target Date: <add date>
Proposal: Outline planning permission for a dwelling & garage.	Location: Lands East of 91 Creagh Road Castledawson BT45 8EY.
Applicant Name and Address: Ciaran Devlin 93 Creagh Road Castledawson BT45 8EY	Agent name and Address:
Summary of Issues: The application is from a member of staff in the planning department of Mid Ulster District Council. Issues for consideration relate to the siting of a dwelling and any impacts on the setting of Creagh.	
Summary of Consultee Responses: DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 45m in both directions and a forward sight distance of 45m. DEARA – Farm has been established for over 6 years, no recent claims	
Characteristics of the Site and Area: Description of proposal Outline planning application for a dwelling and garage. The applicant has provided information in support for a dwelling on a farm and this information will be considered later in my report. Characteristics of Site and Area An irregular shaped site consisting of two rectangular plots connected by a narrow strip of land between properties 87 and 89 Creagh Road. The western rectangular plot is located adjacent to Creagh Road and is located between No. 93 Creagh Road and the residential development of Meadowlands to the south. This land is relatively flat and is in agricultural use. To the east, indicated as the preferred site on drawing No. 01, the site is located within the western corner of a	

larger agricultural field. Along the NW boundary is a post and wire fence and sparse hedgerow. There is a fence defining the SW boundary with the remaining boundaries not defined.

Between the eastern plot of the site and the public road there are 4 dwellings with associated ancillary buildings, outhouses and sheds. The small settlement of Creagh lies to the south and west of the site (approx. 50m) with the site located on unzoned land in the countryside. Land in the area is relatively flat with land outside Creagh being defined mostly by detached single dwellings, farm holdings and agricultural land. There is also industrial development in the area including Creagh Concrete. The Moyola River is located approx. 500m west.

Description of Proposal

Outline planning permission for a dwelling & garage.

Deferred Consideration:

Members are advised this application was deferred at the planning committee on 4th May to allow further consideration of the siting of the proposed dwelling. Following further discussion with the applicant, they have advised they would like consideration of a dwelling to the rear (east) part of the site with a new access lane to serve the dwelling and the existing agricultural fields. The applicants have confirmed the amount of land owned and this is shown in red and blue on the attached aerial photograph. For the avoidance of doubt they do not own the lands identified in yellow.



The previous report has considered and accepted the principal of a dwelling on a farm here as the site is on an active and established farm and there have not been any

development opportunities sold off from the farm in the last 10 years. The planning history shows adjacent and west of the site:

LA09/2021/0075/F Proposed change of house type from previously approved planning application LA09/2015/0173/F for Ciaran and Roisin Higgins (under consideration)

LA09/2015/0173/F- Proposed change of house type from previously approved planning application ref: H/2008/0592/F, 95 Creagh Road, Castledawson, Magherafelt for Ciaran Higgins and Roisin Devlin (permission granted 12.08.2015). (Roisin is the applicant's sister).

H/2008/0592/F- Proposed off-site replacement dwelling, for Liam & Geraldine Devlin, permission granted 11.12.2008 (Liam is the applicant's father).

Issues for consideration relate to the Part c of CTY10 which requires the new dwelling to visually link or be 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.

CTY15 is also a consideration for this application as the settlement limit of Creagh is along the south boundary of the lands owned by the applicant.

The applicant does not own the new dwelling and garage at 91 or the dwelling at 89 Creagh Road, these properties have been notified of the proposed development through the neighbour notification scheme. In the previous report the case officer had accepted that a dwelling in the rear part of the site would visually link with buildings on the farm. I agree with this assessment, there are no buildings on the applicants land between the proposed site and the existing dwelling and 3 outbuildings, I consider these area a group of buildings on the farm and a dwelling in the proposed site will be visually linked with them when seen from the existing laneway. I consider the lane to be a public view as it provides access to 2 other dwellings. There is a new modern dwelling and garage that is to the south east of the existing group of buildings, these are not within the ownership of the applicant and are not buildings on his farm, I am not assessing the proposed development as clustering or visually linking with them to meet the policy. I do not consider a dwelling here would have any significant detrimental impacts on the amenity of this dwelling or the dwelling at no 89, as these both face towards the field, are separated by the lane which is a right of way and any dwelling can be located with a suitable degree of separation from them. Planning Advice Note entitled 'Implementation of Strategic Planning Policy on Development in the Countryside' issued August 2021 is relevant but does not change the considerations on this application as the existing buildings on the farm are more than just a dwelling and a garage.

CTY10 requires a new dwelling to use an existing access lane where practicable. In this case the existing lane serves 4 existing dwellings and there is another long standing permission for another dwelling. The lane is narrow with 2no 90degree bends to get to the rear field and another 90degree bend to access the 2 other houses on the lane. The applicant has advised that due to the narrowness of the lane, it is difficult to serve the rear field with modern farm machinery. A new lane would facilitate this as well as provide a safer access for the other dwellings here. On site I observed marks on the walls of the existing buildings on the lane, consistent with being struck by vehicles. I would agree that modern farm machinery would have difficulty using this lane to access the lands at the rear. There is no other alternative access that is available to the applicant through his land. I conclude that it is not practicable for health and safety reasons to use the existing lane to serve the dwelling and the farm lands at the rear. I consider a new lane, with native

species hedging on both sides, would satisfactorily integrate here as there is only a short stretch, approx. 40m to the front that does not have at least one boundary hedge.

Policy CTY15 is to prevent urban sprawl and prevent development that mars the distinction between the settlement and the countryside. I consider a dwelling in the rear part of the site would cluster with the existing development, it would be screened from Creagh Road and from the settlement by the existing development around it and a modest size dwelling would, in my opinion, be virtually invisible from the public roads. I do not consider a dwelling here would mar the distinction between the settlement and the countryside. As the proposed dwelling is not contiguous with the settlement limit, I do not consider if approved that it would result in urban sprawl.

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

In view of the above, it is my recommendation to the members that planning permission is granted with the conditions specified.

Conditions/Reasons for Refusal:

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. The curtilage of the proposed dwelling, except for the access, shall limited to the area identified in green on the approved plan No. 01 which was date stamp received 28th January 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 7.5m above the finished floor level.

Reason: To safeguard existing and proposed residential amenity.

5. 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.

6. 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.

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

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

8. 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.

9. 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 including sight lines of 2.4m by 45m in both directions and a forward sight distance of 45m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

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.

4. The design of the proposal will be assessed at RM stage to ensure there will be no detrimental impacts on neighbouring residential amenity through over looking, over shadowing or over dominance.

Signature(s)

Date:

Location map with siting identified





**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0116/O	Target Date:
Proposal: Outline planning permission for a dwelling & garage.	Location: Lands East of 91 Creagh Road Castledawson BT45 8EY.
Referral Route: The applicant is a Planning Officer for Mid Ulster District Council.	
Recommendation:	Approve
Applicant Name and Address: Ciaran Devlin 93 Creagh Road Castledawson BT45 8EY	Agent Name and Address:
Executive Summary:	
Signature(s):	

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

Development Plan

Magherafelt Area Plan 2015- land located in the Countryside just outside and north of the small settlement of Creagh, with Magherafelt located approx. 5 mile west. Land is not zoned. The policy provisions of SPPS and PPS21 apply.

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

Planning History

Adjacent and west of the site;

LA09/2021/0075/F Proposed change of house type from previously approved planning application LA09/2015/0173/F for Ciaran and Roisin Higgins (under consideration)

LA09/2015/0173/F- Proposed change of house type from previously approved planning application ref: H/2008/0592/F, 95 Creagh Road, Castledawson, Magherafelt for Ciaran Higgins and Roisin Devlin (permission granted 12.08.2015). (Roisin is the applicant's sister).

H/2008/0592/F- Proposed off-site replacement dwelling, for Liam & Geraldine Devlin, permission granted 11.12.2008 (Liam is the applicant's father).

Representations

No 3rd Party Planning Objections have been received.

Key Planning Policy

SPPS- Strategic Planning Policy Statement for NI

PPS21- Sustainable Development in the Countryside

PPS3- Access, Movement and Parking

Design Guidance- Building on Tradition, a Sustainable Design Guide for the Northern Ireland Countryside.

Consideration

The applicant, Ciaran Devlin, is a Planning Officer for Mid Ulster District Council Planning Department, therefore the proposal is being presented to Members as per MUDC Scheme of Delegation on Planning Matters policy.

The proposal is for a dwelling on a farm in the countryside. Planning Policy Statement 21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS 21 lists development proposals that are considered to be acceptable forms of development in the countryside, including dwellings on farms, subject to policy criteria within CTY10 being met.

I am satisfied that the proposal will integrate into the landscape as it will group with existing development. While CTY13 is the policy context, this site reads as being associated with Creagh, as surrounding development which is adjacent to Creagh also reads with existing development within the settlement. To me, a dwelling on this site will not have a detrimental impact on rural character as it has development on 3 sides. I find that a 7.5m ridge dwelling will satisfactorily integrate onto this site. There is also a 2 storey dwelling to the east of the site.

There are already a number of dwellings and buildings surrounding the site, some in the countryside, some within the village. In my view the proposal will not detract from the rural character of this area through build up of development, as it will consolidate development and will not extend further into the countryside. The proposal will not offend policy CTY14 of PPS21.

There is ample space within this site to provide septic tank provision. The onus is on the landowner/developer to ensure there are appropriate consents in place for any private septic tank provision. No objections have been raised by Environmental Health re septic tank provision or potential impacts on neighbouring properties. In my view the proposal does not offend policy CTY16 of PPS21.

PPS3 Access, Movement and Parking

DfI roads have provided comment on the proposed access to the site and raise no objections on road safety grounds subject to the access being in accordance with the RS1 form which require visibility splays of 2.4m by 45m in both directions and a forward sight distance of 45m. The proposal does not offend any policies contained within PPS3.

Other considerations

From the strategic flood maps NI the site is not affected by pluvial or surface water flooding. There is a flood plain on the opposite side of Creagh Road to the Moyola River but the site is not impacted by this.

As this proposal is outline, impacts on neighbouring amenity can be addressed at Reserved Matters stage to ensure there will be no detrimental impacts of overlooking or overshadowing of neighbouring property, as can the design of the dwelling. I am satisfied that a dwelling can be sited on this site with an acceptable design that will not have a detrimental impact on surrounding residential amenity.

There are no nearby streams or ditches to connect the development to any nearby protected sites. No contamination, human health or ecology issues have been indicated or raised. The site is on flat, stable agricultural land of low biodiversity value. In my view the proposal is of sufficient distance and is of a size, scale and nature that it will not have any conceivable impacts on protected sites including Moyola River or Lough Neagh.

There are no identified historic monuments or buildings nearby.

NIE was identified as a constraint on the Hazard and Constraints section of the planning computer system (Uniform). I consulted NIE for comment and they responded with no objection to the proposal.

7. A detailed landscaping plan shall be submitted and approved as part of the Reserved Matters application and shall identify the location, species and numbers of trees and hedges to be retained and planted. All new curtilage boundaries shall also be identified by new planting, and shall include a mix of hedge and tree planting, to be indicated on the landscape plan, with details to be agreed at reserved matters stage.

During the first available planting season after the commencement of development on site, all proposed trees and hedges indicated in the approved landscaping plan at Reserved Matters stage, shall be planted as shown and permanently retained thereafter, unless otherwise agreed by Mid Ulster Council in writing.

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

8. 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.

9. 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 including sight lines of 2.4m by 45m in both directions and a forward sight distance of 45m. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

Deferred Consideration Report

Summary	
Case Officer: Phelim Marrion	
Application ID: LA09/2021/0381/F	Target Date: <add date>
Proposal: Change of house type	Location: Approx 110m S.W. of 125 Killycolpy Road Ardboe Dungannon
Applicant Name and Address: Mr R O'Neill And Ms L Donnelly 25 Battery Road Cookstown	Agent Name and Address: APS Architects LLP 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Summary of Issues: This application is for a change of house type in the rural area, The proposed dwelling was considered to be excessive in terms of height scale and massing and would be prominent in the landscape. Amended plans have been received that are more in keeping with the scale of the originally approved scheme.	
Summary of Consultee Responses: DFI Roads - approve with conditions for safe access	
Characteristics of the Site and Area: The proposed site is located in the rural countryside outside any defined settlement limit as designated under Cookstown Area Plan 2010. The site is a relatively flat, irregular parcel of agricultural land, cut out of a larger agricultural field. The field sits adjacent a junction in the Killycolpy Rd. The field is bound to its east via the main Killycolpy Rd and to its south by minor dead end road off the Killycolpy Rd.	

The site contains the foundations of a dwelling set back on the site. An existing access off the minor Killycolpy Rd and sweeping gravelled driveway through the site leads up to the foundations.

The western boundary of the site is relatively open defined only by some light, scattered vegetation / scrub. A low approx. 1.2m high hedge defines the northern boundary of the site. An approx. 1.2m high post and wire fence defines the southern / minor roadside boundary of the site to the outside of the access. A mature hedgerow approx. 1.8m high defines the eastern boundary of the site's host field adjacent the main Kilcoply Rd.

Critical views of the site are from the main Killycolpy Rd over a short distance on the south and north approach to the junction of the minor road the site sits adjacent and when travelling along the southern minor roadside frontage of the site's host field. Long distance views of the site also exist from the northeast, from the Ballymaquire Rd when travelling west to east on the approach to the Ballymaquire / Kilycoply crossroads.

The area surrounding the site is rural, characterised by generally flat or gently sloping agricultural landscape. An existing 1 ½ storey dwelling, no. 122a Killycolpy Rd, bounds the site to the west. A small ribbon of development is evident further east/southeast of the site along the Killycolpy Rd. A dispersed settlement pattern defines the wider area.

Description of Proposal

This is a full planning application for a proposed change of house type to that previously approved and deemed to have commenced on site under application I/2012/0098/F. I/2012/0098/F on the 17th July 2012 granted permission for the re-siting of a dwelling approved under previous application I/2010/0309/F; and a proposed new garage (including storage and incidental residential use ancillary to main dwelling) on lands approx. 110m SW of 125 Killycolpy Rd Ardboe. Works under this permission were to have commenced prior to 1st September 2012.

Works on site would appear to have commenced in accordance with I/2012/0098/F. The access into the site and foundations of the dwelling approved appear to be place; and building control (via email received 7th April 2021) confirmed they carried out an inspection of the foundations on the 1st August 2012.

Deferred Consideration:

This application was before the Planning Committee in June 2021 and it was agreed to defer to allow discussions about the design with the Planning Manager. A meeting was held on 17 June 2021 and at that meeting the applicants advised they had provided an amended scheme that reduced the height of the proposed dwelling and removed some of the ornate detailing to try and provide a simple design.

The agent provided a comparison of the dwelling as approved versus the now proposed dwelling. Attached shows the approved dwelling that may be constructed on the site as the black outline and the proposed dwelling superimposed in blue.



The roof has been reduced from 9.5m above finished floor level to 8.2m above ffl. From the above submission it is clear the roof of the now proposed dwelling will have less of a visual impact as it does not have the same massing as the originally approved. The rear return and the front porch are larger than the previously approved scheme, which may still be constructed, however I do not consider this will have a significantly greater visual impact given that it is to the rear and has a filtered view from the south and limited views from the north. The applicants have advised they own and control the hedges along the east boundary of the site, these have been allowed to grow and it is their intention to keep these to screen the site from views from the road. On site it was evident these have matured and do screen the proposed site and I consider, as provided for in Section 52 (1) (a) of the Planning Act (NI 2011, it is appropriate and necessary to attached a condition to retain this hedge to screen this development. While the footprint of the proposed dwelling has increased with the rear return getting larger, in my opinion, the critical views of this will not be so wide ranging and achievable as to make the development an obvious and prominent feature in the landscape. I consider the reduction in the roof height has significantly reduced the visual impact of the dwelling and the simplification of the design without the ornate detailing is in keeping with the area. I note there are hipped roofs in the vicinity and as such accept this is a feature in the area.

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

In light of the existing extant permission on the site, the revisions that have been put forward as well as the proposed mitigation to reduce visual impact, I recommend this application is approved.

Conditions/Reasons for Refusal:

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 development hereby approved shall not commence until the vehicular access, including visibility splays of 2.0m x 4.0m in both directions have been provided in accordance with Drawing No. 05 bearing the date stamp 09 MAR 2021. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. The existing vegetation along Killycolpy Road to the east, as identified in yellow on drawing No 01 bearing the stamp dated 09 MAR 2021 shall not be cut any lower than 3.0m in height above the existing ground level.

Reason: In the interests of visual amenity.

4. All hard and soft landscape works as detailed on drawing no 05 bearing the stamp dated 09 MAR 2021 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practise. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

5. One dwelling only shall be constructed within the area of the site outlined in red on the approved drawing no 01 bearing the stamp dated 09 MAR 2021.

Reason: To control the number of dwelling on the site as this permission is in substitution for planning approval I/2012/0098/F and is not for an additional dwelling on this site.

Signature(s)

Date:



Comhairle Ceantair
Lár Uladh
Mid Ulster
District Council

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

**Development Management Officer Report
Committee Application**

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/0381/F	Target Date:
Proposal: Change of house type	Location: Approx 110m S.W. of 125 Killycolpy Road Ardboe Dungannon
Referral Route: Refusal	
Recommendation: Refuse	
Applicant Name and Address: Mr R O'Neill And Ms L Donnelly 25 Battery Road Cookstown	Agent Name and Address: APS Architects LLP 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Representations:		
Letters of Support		None Received
Letters of Objection		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 is a full planning application for a proposed change of house type to that previously approved and deemed to have commenced on site under application I/2012/0098/F.

I/2012/0098/F on the 17th July 2012 granted permission for the re-siting of a dwelling approved under previous application I/2010/0309/F; and a proposed new garage (including storage and incidental residential use ancillary to main dwelling) on lands approx. 110m SW of 125 Killycolpy Rd Ardboe. Works under this permission were to have commenced prior to 1st September 2012.

Works on site would appear to have commenced in accordance with I/2012/0098/F. The access into the site and foundations of the dwelling approved appear to be place; and building control (via email received 7th April 2021) confirmed they carried out an inspection of the foundations on the 1st August 2012.

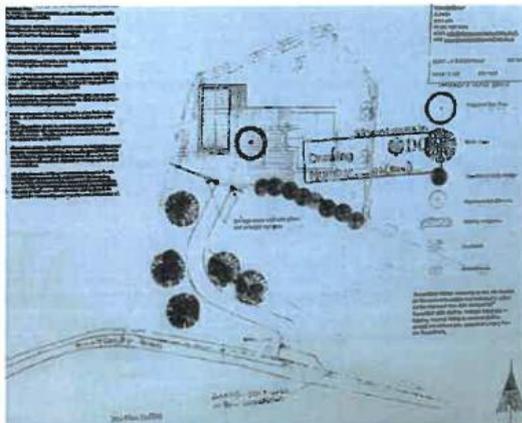


Fig 1: Block Plan (I/2012/0098/F)

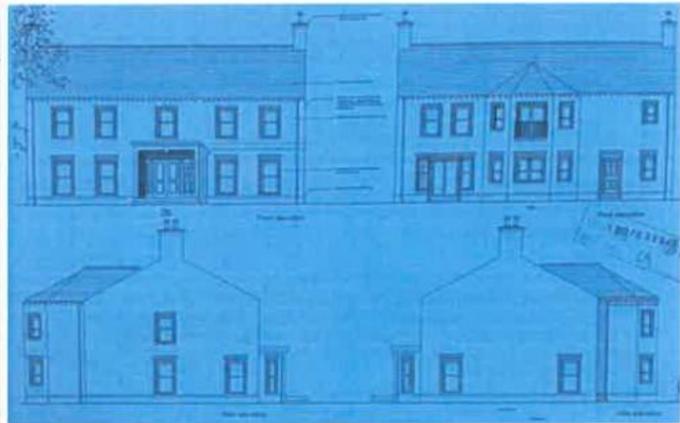


Fig 2: Elevations (I/2012/0098/F)

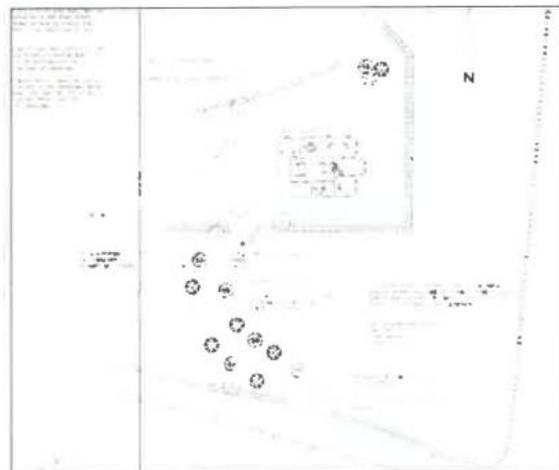


Fig 3: Proposed Block Plan



Figs 4 & 5: Proposed Elevations

Characteristics of the Site and Area

The proposed site is located in the rural countryside outside any defined settlement limit as designated under Cookstown Area Plan 2010.

The site is a relatively flat, irregular parcel of agricultural land, cut out of a larger agricultural field. The field sits adjacent a junction in the Killycolpy Rd. The field is bound to its east via the main Killycolpy Rd and to its south by minor dead end road off the Killycolpy Rd.

The site contains the foundations of a dwelling set back on the site. An existing access off the minor Killycolpy Rd and sweeping gravelled driveway through the site leads up to the foundations.

The western boundary of the site is relatively open defined only by some light, scattered vegetation / scrub. A low approx. 1.2m high hedge defines the northern boundary of the site. An approx. 1.2m high post and wire fence defines the southern / minor roadside boundary of the site to the outside of the access. A mature hedgerow approx. 1.8m high defines the eastern boundary of the site's host field adjacent the main Killycolpy Rd.

Critical views of the site are from the main Killycolpy Rd over a short distance on the south and north approach to the junction of the minor road the site sits adjacent and when travelling along the southern minor roadside frontage of the site's host field. Long distance views of the site also exist from the northeast, from the Ballymaquire Rd when travelling west to east on the approach to the Ballymaquire / Killycolpy crossroads.

The area surrounding the site is rural, characterised by generally flat or gently sloping agricultural landscape. An existing 1 ½ storey dwelling, no. 122a Killycolpy Rd, bounds the site to the west. A small ribbon of development is evident further east/southeast of the site along the Killycolpy Rd. A dispersed settlement pattern defines the wider area.

Planning Assessment of Policy and Other Material Considerations

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

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

Regional Development Strategy 2030

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3 - Access, Movement and Parking

Planning Policy Statement 21 - Sustainable Development in the Countryside

Supplementary Planning Guidance for PPS21 - 'Building on Tradition' A Sustainable Design Guide for the Northern Ireland Countryside.

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

Representations

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

Planning History

On Site

- I/2004/1070/O – 1 ½ storey domestic dwelling with twin domestic garages – Withdrawn 2nd December 2004
- I/2004/1336/O – 1 ½ storey domestic dwelling with twin garage – Granted 12th January 2005
- I/2008/0011/RM – 1 ½ storey domestic dwelling with twin domestic garages – Granted 2nd July 2008
- I/2009/0449/F – Change of access to that approved under I/2008/0011/RM relocated 45m SE of previously approved – Granted 29th September 2009
- I/2010/0013/F – Proposed change of house type and resiting from that approved under I/08/0011/RM using access as approved under I/09/0449/F – Granted 10th March 2010
- I/2010/0309/F – Proposed change of house type to that previously approved under I/2010/0013/F – Granted 15th September 2010
- I/2012/0098/F – Resiting of approved dwelling (under I/2010/0309/F) and proposed new garage (including storage and Incidental residential use ancillary to main dwelling) – Granted 17th July 2012

Adjacent

- I/2005/0347/O – Proposed dwelling house – Granted 20th May 2005

- I/2009/0256/F – Proposed dwelling house – Granted 15th October 2009
- I/2011/0494/F – Proposed one and a half storey dwelling with garage - change of house – Granted 8th February 2012

The above application relate to the lands immediately west of the current site containing no. 122a Kilycolpy Rd

Consultees

1. DfI Roads were consulted in relation to access arrangements and have raised no objections to this proposal, subject to standard conditions and informatives. Accordingly, subject to these conditions and informatives I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

Consideration

Cookstown Area Plan 2010 - is the statutory local development plan for the application site. The site is located outside any development limit and the development plan offers no specific policy or guidance in respect of the proposal.

The Strategic Planning Policy Statement for Northern Ireland - Retains the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside.

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

I am content the principle of this development has been established on site through the previous approval I/2012/0098/F and the subsequent commencement of development. As detailed in 'Description of Proposal' further above works on site would appear to have commenced in accordance with I/2012/0098/F. The access into the site and foundations of the dwelling approved appear to be place; and building control (via email received 7th April 2021) confirmed they carried out an inspection of the foundations on the 1st August 2012.

The above said with respect to the design of the dwelling and garage proposed it must still comply with Policies CTY 13 and 14 of PPS 21. CTY 13 states that the proposed development must be able to visually integrate into the surrounding landscape and be of an appropriate design. Policy CTY 14 allows for a building in the countryside where it does not cause detrimental change to or further erode the rural character of the area.

I do not believe the site has the capacity to absorb the proposed dwelling in accordance with Policy CTY13 and 14. The size, scale, and design of the dwelling is inappropriate for the site and locality and if permitted would be a prominent feature in the landscape when viewed from the surrounding vantage points (see 'Characteristics of the Site and Area') leading to a detrimental change to the rural character of the area.

Whilst the previous dwelling was a substantial size and scale with a ridge height approx. 8.2m above FFL, I believe the proposed dwelling, which has an increased footprint, ridge height approx. 9.5m above FFL and hipped roof design would have a significantly

greater visual impact when viewed from surrounding vantage points. I would also note that the previously approved scheme/(s) on site would appear to have benefitted from mature vegetation along the western boundary of the site, no longer present. Whilst it would not enclose this relatively open site to critical views, it would have provided a backdrop to soften the proposal. I would also note whilst there is one low ridge hipped roof bungalow, no. 144 Kilycolpy Rd located just to the northeast of the site adjacent the main Kilycolpy Rd, it would appear to have been approved in the 1990's, and pitched roofs would be typical of the vicinity.

Accordingly, the agent was contacted via email on the 19th April 2021 and advised that Planning did not consider the proposed dwelling acceptable for the site and locality by reason of its' size, scale and design and offer him the opportunity to submit an amended house type for further consideration.

The agent subsequently emailed on the 27th April 2021 to advise:

- His clients have put time into travelling around Mid Ulster to get an idea of houses currently being built and recently approved to imagine their ideal home. That they have referred to a house on Deerpark Rd approved (LA09/2019/1228/F – picture included) as something they based their design on, that in their opinion their house is much more compact, and that they did not think the overall scale and density of their dwelling presented any issues on a like for like comparison. In fact, the Deerpark Rd house has a 10m ridge height, hipped roof and a garage with an 8m ridge height.
- In any event, his clients are willing to reduce the dwelling from a 9.5m to 8.34m ridge height. (Previously approved dwelling had an 8.2m ridge height from FFL with a standard gable type roof). In his opinion, the revised height with a hipped roof would reduce the overall scale and massing considerably and it should blend into the surroundings especially with a hipped roof adjacent and so many more in the local area (for evidential purposes he has attached a few hipped roof houses in the local area).
- His clients intend, over time, to have good mature planting on site and over the past few years have allowed the hedge adjacent the main Kilycolpy Rd to grow from approx. 4 to 12ft meaning the house cannot be seen from directly in front.
- The house is to be located on a very minor road used only by locals who live in this area so the traffic count is very low.

Whilst the additional information above, including reduced ridge height has been taken into consideration, the opinion has not changed the dwelling is still considered inappropriate for the site and its locality, and if permitted it would be a prominent feature in the landscape leading to a detrimental change to the rural character of the area. In relation to the approval at Deerpark Rd and hipped roofed houses referenced in the evidence provided, I would note that every site is assessed on its individual merit and that of its surrounding area / context. With the exception of no. 144 Kilycolpy Rd the dwellings referenced would not be viewed within the surrounding area / context of the site. No. 144 Kilycolpy Rd, a low ridge, hipped roof bungalow as stated above is not a recent approval nor is its hipped roof construction typical of the area. The assessment of integration is judged from critical views along stretches of the public road. This proposed dwelling will be viewed from the minor dead-end road it sits adjacent, the main Kilycolpy over a short distance on the south and north approach to the junction of the aforementioned minor road; and the Ballymaguire Rd to the northeast of the site.

Other Policy/Considerations

The only property in close proximity to the site is no. 122a Kilycolpy Rd, located immediately to the west. I have no concerns regarding the newly proposed dwelling impacting the amenity of no. 122a to an unreasonable degree given previous separation distances are to be retained and a previously approved garage is to be erected along the western boundary of the site between the two properties, helping enclose / screen both private amenity areas.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available, online have been checked and identified no built heritage assets or natural heritage interests of significance on site or within the immediate vicinity.

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

The site is located within SG Defence Estates relating to Met Office Radar however the proposal would be under the height threshold (10.7m) for consultation to Defence Estates. The site is also located within an area of constraint on wind turbines however proposal is for a dwelling and garage.

Taking all of the above into consideration I would recommend the refusal of this application.

Neighbour Notification Checked	Yes
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Summary of Recommendation:	Refuse
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Reasons for Refusal:

1. The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the design of the dwelling is inappropriate for the site and its locality, and if permitted it would be a prominent feature in the landscape.
2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

Signature(s)

Date: