



07 February 2023

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 07 February 2023 at 19:00 to transact the business noted below.

A link to join the meeting through the Council's remote meeting platform will follow.

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

### Development Management Decisions

5. Receive Planning Applications 9 - 328

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2019/1430/F	4 new dwellings, associated parking, landscaping, roads and footpath at lands 110m SE of 30	REFUSE

		Pound Road, Magherafelt. for Noeleen Kidd	
5.2.	LA09/2021/0090/F	Replacement access laneway to dwelling (amended access) at 37 Mullybrannon Road, Dungannon for Farasha Properties Ltd	APPROVE
5.3.	LA09/2021/0091/F	Dwelling and garage (amended access and additional Landscaping) at 150m SW of 35 Mullybrannon Road, Dungannon for Farasha Properties Ltd	APPROVE
5.4.	LA09/2021/1260/O	Dwelling and garage at approx 80m E of 24 Garrison Road, Magherafelt for Donna & Danny O'Shea	REFUSE
5.5.	LA09/2021/1286/O	Dwelling and garage at 30m SW of 30 Cloane Road, Draperstown for Sean Gallagher	REFUSE
5.6.	LA09/2021/1385/F	Widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road. at 250m N of 2 Gortinure Road, Maghera for Mr Rafferty	REFUSE
5.7.	LA09/2021/1575/RM	Demolition of workshop & erection of a 1.5 storey detached dwelling at to the rear of 11 Adair Gardens, Cookstown for R & F Developments	APPROVE
5.8.	LA09/2021/1652/F	Entrance to approved site at 85m E of 3 Tulnacross Road, Cookstown for Wesley Carson	REFUSE
5.9.	LA09/2021/1739/F	Sand and gravel extraction using dry screeners/loading shovel. Proposed access road including passing bays, wheel wash and welfare facilities. Construction of noise attenuation bund. (Renewal of H/2014/0019/F) at rear of 5 Brackaghlistlea Road, Desertmartin for Mea Ltd	APPROVE
5.10.	LA09/2021/1779/O	Domestic dwelling and garage on a farm at 30m SW of 3 Macknagh Lane, Upperlands for Mrs Mary Rafferty	REFUSE
5.11.	LA09/2022/0131/F	Storage/warehouse for the storage of metal components at 111 Ballynakilly Road, Coalisland for James Mackle	APPROVE



5.12.	LA09/2022/0201/O	Single storey dwelling adjacent to 64 Reaskmore Road, Reaskmore, Dungannon for Kieran MC Gartland	REFUSE
5.13.	LA09/2022/0249/O	Dwelling & domestic garage on a farm at land adjacent to & immediately S of 14 Tychaney Road, Ballygawley for Jenna Robinson	REFUSE
5.14.	LA09/2022/0418/F	2 pair of semi detached houses (4 houses) to replace detached house M/2013/0071/F at 1 Castle Glen Avenue, Ranfurly Road, Dungannon for M & L Property Developments Ltd	APPROVE
5.15.	LA09/2022/0440/F	Residential development of 30 dwellings (3 & 4 bed detached and semi-detached houses) with associated access & parking, landscaping and public open space. at 140 Old Caulfield Road, Castlecaulfield, Dungannon for Alskea Ltd	APPROVE
5.16.	LA09/2022/0490/O	Dwelling and garage on a farm at 194M SW of 8 Killybearn Lane, Cookstown for Martyn Devlin	REFUSE
5.17.	LA09/2022/0520/F	30m telecommunication mast with 3No. antennae, 3no. radio units and 2No. radio dishes; to include the an equipment compound and associated ancillary development. at lands C.107m S of 19 Lisnagleer Road, Dungannon, for Cornerstone	APPROVE
5.18.	LA09/2022/0551/F	Two storey dwelling at lands at 64 Drumcoo Green, Dungannon for Ryan Graham MC Curry	REFUSE
5.19.	LA09/2022/0556/O	Domestic dwelling and garage adjacent to 37 Moss Road, Ballymaguigan, Magherafelt for Ciara McGrath	REFUSE
5.20.	LA09/2022/0732/O	Dwelling and garage at 110m NE of 26 Broagh Road, Knockcloghrim, Magherafelt, for Martin McErlean	REFUSE
5.21.	LA09/2022/0739/F	Buildings to house wood and coco fibre plant, storage bay, chip feed bin, access (in situ) and ancillary site works. at lands approx. 7m N of 16 New Ferry	REFUSE

		Road, Bellaghy for Bulrush Horticultural Ltd	
5.22.	LA09/2022/1061/O	Dwelling and garage at lands 160 Metres NE of 136 Mayogall Road, Clady, for Colm McNally	REFUSE
5.23.	LA09/2022/1062/O	Dwelling and garage at 95m S of 4 Drumgarrell Road, Cookstown, for Mr Ryan O'Neill	REFUSE
5.24.	LA09/2022/1326/O	Dwelling and detached garage at lands 45m SE of 101 Drummurrer Lane, Coalisland for Michael Quinn	REFUSE
5.25.	LA09/2022/1413/O	Site for dwelling and garage on a farm at 90m N of 2A Brackaghreilly Road, Maghera, for Mr Tomas Convery	REFUSE
5.26.	LA09/2022/1419/O	Detached bungalow with associated external private amenity space and garage at lands W of 4,5, 6 & 7 Riverdale Drive, Cookstown for Mr Sammy Lyle	REFUSE
5.27.	LA09/2022/1426/O	Site for dwelling and garage within a cluster at 40m NE of 178 Battery Road, Moortown for Peter Devlin	REFUSE
5.28.	LA09/2022/1504/O	Site for dwelling and domestic garage at 160m NE of 116 Lurgylea Road, Dungannon for Mr Patrick Clarke	REFUSE
5.29.	LA09/2022/1512/O	Two storey dwelling with single storey garage, associated ancillary site works, landscaping and new access to the public road. at 25m N of 15 Annaginny Road, Dungannon for Mr And Mrs Philip Brown	REFUSE
5.30.	LA09/2022/1535/F	Two storey dwelling, access and associated works (development already commenced- M/2009/0016/F) adjacent to 71 Aghintober Road, Dungannon for Mr A McManus	APPROVE
5.31.	LA09/2022/1623/F	Change of house type and relocation of extant planning LA09/2018/1657/F Curtilage to be extended with garage to remain as previously approved at site between 117 and 119 Mullaghboy	APPROVE

		Road, Bellaghy, for Bronagh And Paul Doherty	
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6. Receive Deferred Applications

329 - 696

	Planning Reference	Proposal	Recommendation
6.1.	LA09/2019/0768/F	Retention of two storage sheds and yard at lands 70m W of 33 Kanes Rampart, Coalisland, for Barran Yennie Peat Products	APPROVE
6.2.	LA09/2019/1051/O	Site for a dwelling and domestic garage at Approx 80m S of 103 Moyagall Road, Magherafelt for Mr Conor O'Neill	APPROVE
6.3.	LA09/2020/0213/F	Restructuring and alterations of vehicular access at 18 Cookstown Road, Dungannon for Mr Barry O'Neill	APPROVE
6.4.	LA09/2020/0905/F	Retention of change of use of former farm shed to engineering works at Approx 40m S of 28 Slatmore Road, Clogher for Wiltshire Engineering	APPROVE
6.5.	LA09/2020/1140/O	Dwelling on a farm with a detached garage between 104 Ballygawley Road and an agricultural building 100m NE of 104 Ballygawley Road, Glenadush for Mr Bernard Mc Aleer	REFUSE
6.6.	LA09/2020/1322/O	Dwelling adjacent to 59 Drumaspil Road, Drumcrow, Dungannon for Eamonn Donnelly	APPROVE
6.7.	LA09/2021/0129/O	Site for dwelling house & double domestic garage at approx. 40m NE of 2 Ballynagilly Road, Cookstown, for Mr James Harkness	REFUSE
6.8.	LA09/2021/0599/O	2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping at adjacent and NW of 6 Rogully Road, Loup, Moneymore for Ashling McNicholl	REFUSE
6.9.	LA09/2021/0719/F	Farm dwelling and garage at approx 25m E of 25 Creagh Hill Road, Toomebridge for Mr Brendan Mulholland	REFUSE

6.10.	LA09/2021/0874/O	Dwelling and garage on a rounding off site in a cluster at 30m NE of 122 Creagh Road, Anahorish, Castledawson, for Mr Malachy Gribbin	APPROVE
6.11.	LA09/2021/1182/F	Retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description) at approx 70m NE of 70 Drumgrannon Road, Dungannon for George Troughton	APPROVE
6.12.	LA09/2021/1299/F	Semi-detached dwelling at site adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt for James Sheridan	APPROVE
6.13.	LA09/2021/1449/O	Dwelling and garage within a cluster site at 15m E of 6 Tamnadeese Road, Castledawson for Derek Fulton	APPROVE
6.14.	LA09/2022/0122/O	Dwelling at land 20m SE of 96 Reenaderry Road, Derrytresk, Coalisland for Mr Stephen McCaffrey	REFUSE
6.15.	LA09/2022/0168/O	Dwelling and garage in a cluster at 25m N of 2 Coltrim Lane, Moneymore for Mr Mark Hamilton	REFUSE
6.16.	LA09/2022/0242/F	Retention of domestic store as built (not in accordance with LA09/2021/0259/F) at 20 Ardchrois, Donaghmore for Conrad McGuigan	APPROVE
6.17.	LA09/2022/0437/F	Retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland for Mr James Campbell	REFUSE
6.18.	LA09/2022/0645/O	Dwelling and domestic garage at 70m N of 135A Five Mile Straight, Maghera for Patrick McKenna	APPROVE
6.19.	LA09/2022/0662/O	Dwelling and domestic garage at 95m SW of 6 Moss Road, Coagh, Cookstown for Ryan McGuckin	APPROVE
6.20.	LA09/2022/0685/O	2 storey dwelling and garage at an existing cluster to rear of 68 Drumconvis Road, Coagh, for Frances Harkness	APPROVE

6.21.	LA09/2022/1226/O	Site for dwelling and domestic Garage at 100m S of 25A , Cloane Road, Draperstown at the junction Of Cloane Road and Cloane Lane, for Mr Mark Quinn	REFUSE
6.22.	LA09/2022/1230/O	Site for dwelling and domestic garage at 155m S of 25a Cloane Road, Draperstown, for Mr Mark Quinn	REFUSE

#### Matters for Information

- 7 Planning Committee minutes of meeting held on 9 January 2023 697 - 736

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

#### Matters for Decision

8. Receive Enforcement Report

#### Matters for Information

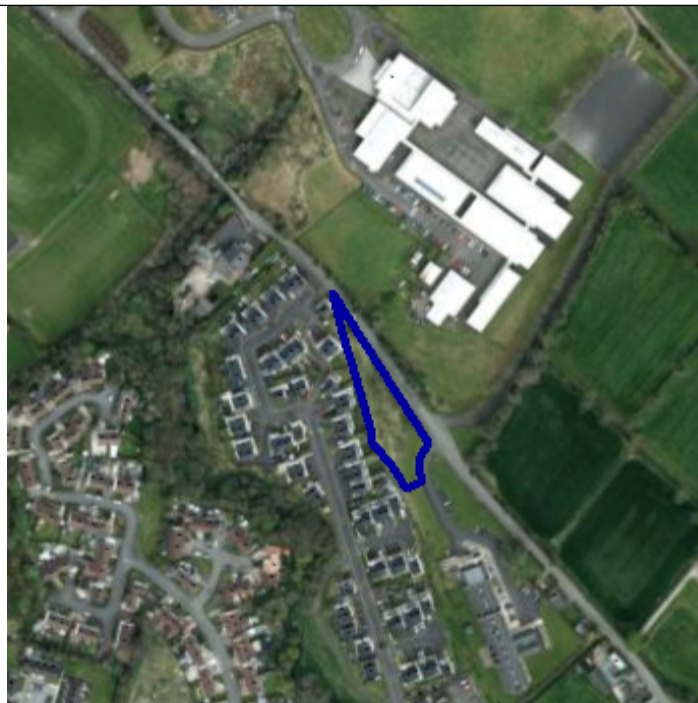
9. Planning Committee Confidential Minutes of Meeting held on 9 January 2023
10. Enforcement Cases Opened
11. Enforcement Cases Closed





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2019/1430/F	<b>Target Date:</b> 26 December 2019
<b>Proposal:</b> Construction of 4 new dwellings, associated parking, landscaping, roads and footpaths.	<b>Location:</b> Lands 110M South East Of No.30 Pound Road Magherafelt.
<b>Referral Route:</b> Refuse is recommended  Refusal - To Committee - Contrary to PPS 7 and objections received.	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Noeleen Kidd 26 Thornhill Avenue Magherafelt BT45 5JA	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>  Refusal	

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Environmental Health Mid Ulster Council	Substantive: TBC
	Rivers Agency	Substantive: YResponseType: FR
	Rivers Agency	Substantive: YResponseType: FR
	Rivers Agency	Substantive: TBC
	Rivers Agency	Substantive: TBC
	Rivers Agency	Substantive: TBC
	Rivers Agency	Substantive: TBC
	Rivers Agency	Substantive: TBC
Non Statutory	Rivers Agency	472956 - Final



Consultee		Response.pdf
Non Statutory Consultee	Rivers Agency	
<b>Representations:</b>		
Letters of Support	0	
Letters of Objection	8	
Letters Non Committal	0	
Number of Support Petitions and signatures		
Number of Petitions of Objection and signatures		
<b>Summary of Issues</b>		
Refusal - To Committee - Contrary to PPS 7 and objections received.		
<b>Characteristics of the Site and Area</b>		
<p>The site is located within the development limits of Magherafelt and it is located within the Local Landscape Policy Area MT34 North and East Magherafelt as per the Magherafelt Area Plan 2015. The proposal site is a small strip of a triangular shape located on the Pound Road, Magherafelt. Immediately to the rear on the Western boundary a large housing development has been approved and predominantly built, which sits at a higher level than the proposal site. To the south of the site is a large nursing home. NE is the Sperrin College site. Pound road is a very narrow minor road. The site is identified from surrounding sites by a post and wire fence to all sides. The site levels are elevated above the road level on the western side of the site with them falling down quite considerably to meet those of the road level.</p> <p>Relevant planning history LA09/2016/1023/F - 5 No detached dwellings - lands 110m SE of No. 30 Pound Road, Magherafelt - Withdrawn</p> <p>Representations There were 16 neighbour notification letters sent out however 8 objections were received</p> <ul style="list-style-type: none"> <li>- summary of objections are as below;</li> <li>- Concerns over the access, road safety and traffic flow - concerns that the access is insufficient, fast road, no inclusion of right hand turn lane.</li> <li>- Safety issues - safety issues of residents given the lack of footpath, no street lighting on a busy road.</li> <li>- Concerns of flooding (Discuss) Concerns of drainage</li> <li>- Loss of amenity - loss of privacy, increase noise pollution, overshadowing and loss of light</li> <li>- Adverse visual impact - concerns over overall height</li> <li>- Loss of existing views and adverse effect on the character of the area</li> <li>- Concerns regarding sewage system</li> <li>- Insufficient car parking</li> <li>- Concerns over properties not being neighbour notified.</li> <li>- Concerns of overdevelopment of the site</li> </ul>		

## **Description of Proposal**

This is a proposed full application for the construction of 4 new dwellings, associated parking, landscaping, roads and footpaths located lands 110m SE of No. 30 Pound Road, Magherafelt.

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

### **Policy Consideration**

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 7: Quality Residential Environment

PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. The SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Policy QD1 of PPS 7 states that planning permission will be granted for new residential development only where it is demonstrated that it will create a quality and sustainable residential environment. It indicates that housing will not be permitted in established residential areas where it would result in unacceptable damage to local character, environmental quality or residential amenity of these areas. The current proposal is for a single storey detached dwelling. The Policy sets out nine criteria which all residential development proposals are expected to meet. I must note that the previous application on this site LA09/2016/1023/F is a material consideration as during that application it was determined that only three dwellings should be proposed, I acknowledge that this has been withdrawn but was heading to committee as a refusal.

a) the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings structures and landscaped and hard surface areas:-  
The proposal site is within the Local Landscape and Policy Area North and East Magherafelt MT34 as defined in the Magherafelt Area Plan 2015. This is identified as an area of distinctive landscape. According to the area plan when land is identified within designated LLPA's planning permission will not be granted for planning proposals that would adversely affect their intrinsic environmental value and character. As stated that in the previous application LA09/2016/1023/F that five/four dwellings was deemed as overdevelopment wherein only three dwellings would be permitted on this site, I agree

with this opinion and hold the opinion that four dwellings is not acceptable and should be reduced to a maximum of three.

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

I note that the site is located within a Local Landscape Policy Area but as noted there have been concerns raised about over development of the site. In addition, there does not appear to be any other features of archaeological and built heritage, and landscape in near vicinity.

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

Given the proposed size of the scheme, I note that public open space is not required, however the baseline for private amenity is 40sqm and upon review, I note that each dwelling has been provided with an excess of 40sqm of garden space each, which appears to be sufficient.

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

The size and scale of this development does not require it to make provision for local neighbourhood facilities. There are existing transport links in the area.

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

I am content the site will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system. I note that the access layouts provides the ability of the lands around the site to be further developed in the future.

f) adequate and appropriate provision is made for parking:-

After consultation with DFI Roads, they have confirmed that there is sufficient parking and turning area have been provided within the proposed site.

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

I note that the proposal involves a mix of housetypes which is encouraged in housing developments, upon review I am content that the house designs are relatively simple and typical modern two storey dwelling housetypes and I am content that these are acceptable in this location.

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

As stated I am of the opinion that the site with 4 dwellings is deemed as

overdevelopment; this plus the existing landform and separation distances between the site and dwellings along the western boundary that the development as is would conflict with its land uses. From this, I am of the opinion that the proposed development has the capacity to adversely affect neighbouring properties by way of potential overlooking, loss of light, overshadowing and other disturbance. I note that there have been a number of objections received in connections to fears of loss of privacy etc.

I note that through the application that the agent has amended the scheme to try and alleviate the concerns however I hold the view that dropping 'Ht2' from the scheme would allow for a better scheme that in my opinion could be enough to alleviate some of the concerns. I hold the view that housetypes 'Ht1a' have now been designed to have no gable end windows which do alleviate overlooking issues. However the agent confirmed that he could not drop any units and could not move 'Ht2' any more given a foul pipe running through the site. Whilst I acknowledge the effort to alleviate the concerns raised, I still hold the view that the current scheme still has the capacity to result in an adverse impact on neighbouring amenity.

i) the development is designed to deter crime and promote personal safety:-  
It is my opinion that the proposed development will not increase the potential for crime.

Environmental Health were consulted and had no objections to the proposal however construction work, which is audible at any noise sensitive property outside the site, shall only take place between the hours of 07.00 - 19.00 hours on Monday to Friday, 07.00 - 13.00 hours on Saturday with no such working on Sunday. All construction work should be in accordance with BS 5228:2009. NI Water were also consulted but concluded no objections.

### PPS 3: Access, Movement and Parking

After consultation with DFI Roads, they confirmed that the sight splays in both directions onto Pound Road should be 2.4 x 70 metres, I can confirm that the agent has provided this and will need to be conditioned. DFI Roads went on to state that the proposal is generally acceptable subject to a satisfactory and fully detailed and annotated PSD Drawing being submitted for appraisal/approval. It is noted that the development itself will not be subject to a determination as it remains private. The determination is primarily for the works on the Pound Road to facilitate road widening and footway linkage. The development is proposed as a privately maintained development for 4 dwellings accessing from the privately maintained driveway for the nursing home. Adequate parking and a turning area is provided within the proposed residential development area. Access from the residential care home driveway onto the Pound Road is consistent with guidelines in terms of sightlines and width. The standard of the Pound Road has been considered, however taking into account that the proposal is for a relatively minor and privately maintained development for 4 dwellings, the proposed road and footway improvements along the site frontage with a footway network at Salters Bridge is considered appropriate and reasonable for the level of impact the development will have on the road network.

Given the size of the proposal it was felt necessary to consult Rivers Agency, in their initial response stated that in terms of FLD1 - Development in Fluvial and coastal Flood

Plains - The Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. Went on to say that FLD2 - Protection of Flood Defence and Drainage Infrastructure - The site may be affected by undesignated watercourses of which we have no record, in the event of an undesignated watercourse being discovered, Policy FLD 2 will apply. FLD3 - Development and Surface Water - In accordance with revised PPS 15, Planning and Flood Risk, FLD 3, Development and Surface Water (Pluvial) Flood Risk outside Flood Plains, a Drainage Assessment is required due to the size and nature of the development FLD3 of PPS15 applies. FLD 4 and 5 do not apply to this site. I note that a Drainage assessment was requested and subsequently submitted with another consultation sent to Rivers Agency.

In Rivers final response confirmed that comments in relation to Revised PPS 15 FLD 1, FLD 2, FLD 4 & FLD 5 remain the same as per our consultation response dated 30th March 2021. In terms of FLD3 - Development and Surface Water - DfI Rivers has reviewed the Drainage Assessment (DA) Revision A, from Sheehy Consulting date stamped 15th April 2022, and comments as follows:-

The DA has demonstrated that the design and construction of a suitable drainage network is feasible. It indicates that the 1 in 100 year event could be contained through the addition an underground offline system adjacent to the online attenuation system, when discharging at existing green field runoff rate, and therefore exceedance waters can be safely dealt with without breaching the consented discharge rate. Further assessment of the drainage network will be made by NIW prior to adoption. However, in order ensure compliance with PPS 15, DfI Rivers request that the potential flood risk from exceedance of the network, in the 1 in 100 year event, is managed by way of a condition. From such I am content that the proposal will not conflict with PPS 15.

In response to the comments raised by objectors, firstly, with regards to road safety and access concerns; I note that DFI Roads were consulted and confirmed that the access arrangements are sufficient so I am content that there should be no issues in terms of safety. With regards to concerns of flooding and concerns of drainage, I note that after the submission of the drainage assessment and comments by Rivers Agency confirm that the proposal is acceptable in terms of flooding etc. subject to the suitable conditions being applied.

In terms of loss of amenity, as stated that the proposed scheme has the potential to have an impact on amenity inclusive of loss of privacy, increase noise pollution, overshadowing and loss of light. With regards to the visual impact, as noted it has been agreed that the overall design is acceptable therefore I am content that it is unlikely to have an adverse visual impact. I note that the loss of existing views is not a material consideration as no one has a right to a view. It has already been stated that the proposal is deemed as overdevelopment and will have an adverse impact on the character of the area. In terms of sufficient car parking, again DFI Roads confirmed that each dwelling has provided sufficient parking. With regards to the drainage, I note that NI Water were consulted and confirmed that they had no objections and that there was capacity. Finally, with concerns over properties not being neighbour notified, I can confirm that the relevant neighbours were notified.

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.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposed development is contrary to Policy QD1 of the Planning Policy Statement 7 (PPS7) Quality Residential Environments in that it has not been demonstrated that the development would create a quality and sustainable residential environment and fails to meet the requirements of criteria (a) and (h) of Policy QD, in that it will not respect the surrounding context and will result in adverse impact on neighbouring land uses by way of loss neighbouring amenity.

**Case Officer:** Peter Henry

**Date:** 18 January 2023

ANNEX	
<b>Date Valid</b>	31 October 2019
<b>Date First Advertised</b>	12 November 2019
<b>Date Last Advertised</b>	12 November 2019
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner / Occupier  46 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  58 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  57 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  47 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  45 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  56 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  Sperrin Intergrated School 39 Pound Road Magherafelt Londonderry BT45 6NR  The Owner / Occupier  22 Pound Road Magherafelt Londonderry BT45 6NR  The Owner / Occupier  40 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  41 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  42 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  33 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  38 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  39 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  43 Salter's Bridge Magherafelt Londonderry BT45 6QU  The Owner / Occupier  44 Salter's Bridge Magherafelt Londonderry BT45 6QU</p>	

<b>Date of Last Neighbour Notification</b>	22 January 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  NI Water - Multiple Units West-Substantive: TBCResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Environmental Health Mid Ulster Council-Substantive: TBC Rivers Agency-Substantive: YResponseType: FR Rivers Agency-Substantive: YResponseType: FR Rivers Agency-Substantive: TBC Rivers Agency-Substantive: TBC Rivers Agency-Substantive: TBC Rivers Agency-Substantive: TBC Rivers Agency-Substantive: TBC Rivers Agency-472956 - Final Response.pdf Rivers Agency-	



**Drawing Numbers and Title**

Block/Site Survey Plans Plan Ref: 02/4

Site Location Plan Plan Ref: 01

Proposed Plans Plan Ref: 05

Proposed Plans Plan Ref: 03

Site Layout or Block Plan Plan Ref: 02

Proposed Plans Plan Ref: 04

Proposed Elevations

Block/Site Survey Plans

Elevations and Floor Plans Plan Ref: 03/1

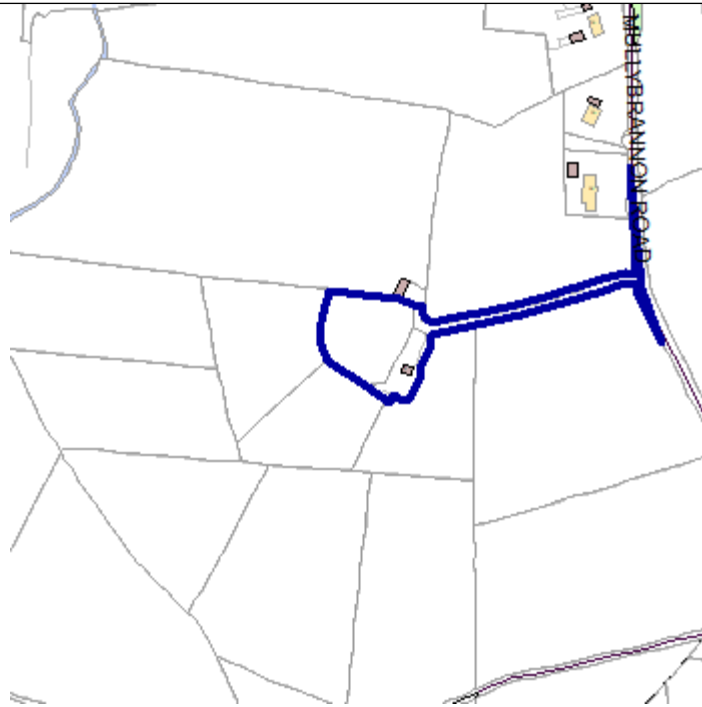
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/0090/F	<b>Target Date:</b> 19 March 2021
<b>Proposal:</b> Replacement access laneway to dwelling (Amended Access)	<b>Location:</b> 37 Mullybrannon Road Dungannon.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR

**Representations:**

Letters of Support	0
Letters of Objection	2
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues****Characteristics of the Site and Area**

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with predominately agricultural fields, farm holdings and dwellings on single plots. To the north of the existing access lane to the site is a single storey and two storey dwellings with roadside frontages onto Mullybrannon Road. There are no other dwellings

to the south of the access lane.

The Mullybrannon Road rises up from north to south where it flattens off just beyond the south side of the access. At the junction with Mullybrannon Road there is an existing access lane and to the south of this lane land has been cleared for another lane which is the subject of this application.

At the site is an existing single storey building which is currently being used as a farm building. The building is finished in pebbledash walls and natural slate roof tiles. There are a number of tiles missing from the roof. There is also a dwelling under construction in the adjoining site. Along the southern boundary of the lane is a post and wire fence and the northern boundary of the adjacent lane has hedging.

### **Description of Proposal**

This is a full application for a replacement access laneway to dwelling (Amended Access) at 37 Mullybrannon Road, Dungannon.

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

#### **Policy Consideration**

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

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

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty.

At the time of writing, 2no. third-party objections have been received from the following objectors.

1. Mr Brian Curran at No.35 Mullybrannon Road submitted objection letters on 24th June 2021, 2nd December 2021, and 17th December 2022
2. An objection letter was submitted on 30th June 2021 from Les Ross Planning on behalf of No.31 Mullybrannon Road

Mr Curran's dwelling is 48m north of the access lane to the application site and the owner/occupier of No.33 is 164m north of the access lane.

Both objection letters have raised the following issues

1. Principle of development that the land should remain for agricultural. In response to the issue anyone can apply for planning permission on land within the countryside and it will be assessed to ascertain whether it meets any of the policies.

2. Overlooking - The proposed laneway would lead to private areas of our lane at No. 35 and bring overlooking by owners/occupiers using the lane. In rebuttal the laneway is 48m away from No. 35 and the applicant has proposed planting along both sides of the laneway. I am content there will not be unacceptable overlooking to No. 35 from the laneway as someone will be travelling up the lane for such a short timeframe to and from the dwellings.

3. Overshadowing - The addition of lights on the laneway will result in overshadowing to No. 35's living room. In rebuttal, the applicant has not proposed lights on the laneway and I am content there is sufficient separation distance between the lane and No. 35 for their not to be unacceptable overshadowing. On the site plan a row of trees has been proposed on both sides of the laneway which I believe will block any lights coming from the laneway.

4. Disturbance - When vehicles access the proposed laneway noise can be heard in No. 35's living room. In rebuttal, there was already a laneway to the dwelling at No. 35 and this proposed is for a new shared laneway to No. 35 and the dwelling under consideration at LA09/2021/0091/F. I consider there will not be unacceptable disturbance due to the proposal.

5. Out of Character - The design of the proposed laneway is out of character with the surrounding area as there will be three laneways. In rebuttal, the applicant had originally proposed a share laneway to the dwelling at No.37 and the proposed replacement dwelling retaining the agricultural lane.

The objector at No.31 has also raised concerns about the proliferation of access at this site as there was previously an agricultural lane and there is now the appearance of three lanes. In discussions with the agent it was agreed that one lane would share the two dwellings and there would be proposed planting through the middle of the lanes to mitigate against the appearance of the lanes in the countryside.

6. Road Safety - The objector at No.35 has concerns about another access onto a narrow single track road. DFI roads were consulted about the proposal when it was three lanes and responded with no concerns and it has since been reduced to two lanes which is a lesser scheme. DFI roads are the statutory authority so I am content if they have no objections to the proposal.

#### Planning History

##### Application site history

LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER ' Permission Granted 19.04.2019

LA09/2019/0818/RM - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon ' Permission Granted 11.09.2019

##### Adjacent site

LA09/2021/0091/F - Proposed dwelling and garage (Amended Access and Additional Landscaping) - 150m South West of 35 Mullybrannon Road, Dungannon ' Under Consideration

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

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

#### Dungannon and South Tyrone Area Plan 2010

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

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

#### PPS 3 Access, Movement and Parking

##### Policy AMP 2 ' Access to public roads

LA09/2019/0145/O and LA09/2019/0818/RM granted approval for a replacement dwelling at No. 37 Mullybrannon Road. There is an existing lane to this site and as it was a replacement there was no statutory requirement to consult DFI Roads or upgrade the access. As part of this approval established trees along the lane were supposed to be retained and these have been removed but for one tree.

In initial drawings submitted by the applicant it was proposed to retain the existing lane for agricultural use and have two new lanes. Roads accepted the principle of two lanes but in discussions with my senior planner it was agreed this was unacceptable. I consider three lanes would lead to a proliferation of accesses and would be detrimental to rural character.

The proposal for two lanes will not prejudice road safety and I am content the scale of the development is acceptable. The applicant has shown in the latest block plan 01 Rev 3 there will be a shared laneway to access both dwellings and an agricultural lane will be retained to the north. Along both sides of the shared laneway to the dwellings, new landscape planting of trees and hedging has been proposed. I am content this will address concerns stated by the objectors about privacy and disturbance created by an additional lane.

Overall, I am content the proposal meets all the criteria in AMP 2.

#### CTY 13 Integration and CTY14 Rural Character in PPS 21

There will only be critical views of the access when directly in front of the access along Mullybrannon Road. I am content as the applicant has proposed new landscaping along the laneway this will assist in integrating it into the landscape. I consider it is appropriate to condition the new landscaping is put in place within 6 weeks of the commencement of the development.

#### Other Considerations

I checked the statutory map viewers, and I am content there are no other ecological, built heritage or flooding issues at the site.

**Summary of Recommendation:**

Approve is recommended

The proposal is recommended for approval as it meets the criteria in AMP 2 and CTY 13 and CTY 14 in PPS 21.

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 90.0m in both directions and any forward sight distance shall be provided in accordance with drawing 01 Rev 3 date stamped received 19 OCT 2022. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

**Condition 3**

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

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

**Condition 4**

The existing natural screenings of the site, as indicated on approved drawing No 01 Rev 3 date stamped received 19 OCT 2022 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

**Condition 5**

All hard and soft landscape works as detailed on drawing No. 01 Rev 3 bearing the stamp dated 19 OCT 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 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.

**Case Officer:** Gillian Beattie

**Date:** 18 January 2023

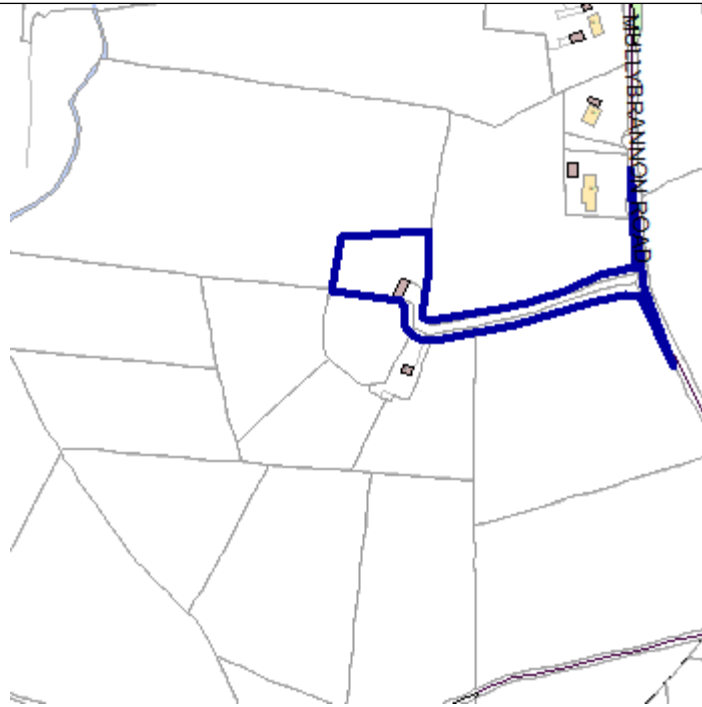


<b>ANNEX</b>	
<b>Date Valid</b>	22 January 2021
<b>Date First Advertised</b>	4 February 2021
<b>Date Last Advertised</b>	2 February 2021
<b>Details of Neighbour Notification (all addresses)</b>  The Owner / Occupier 35 Mullybrannon Road Dungannon Tyrone BT71 7ER  The Owner / Occupier 37 Mullybrannon Road, Dungannon, BT71 7ER	
<b>Date of Last Neighbour Notification</b>	18 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR	
<b>Drawing Numbers and Title</b>  Site Location Plan   Plan Ref: 01 Rev 3	
<b>Notification to Department (if relevant)</b>  Not ApplicableNot ApplicableNot ApplicableNot Applicable	



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/0091/F	<b>Target Date:</b> 19 March 2021
<b>Proposal:</b> Proposed dwelling and garage (Amended Access and Additional Landscaping)	<b>Location:</b> 150M South West Of 35 Mullybrannon Road Dungannon.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Farasha Properties Ltd 34 Culrevog Road Dungannon BT71 7PY	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR

**Representations:**

Letters of Support	0
Letters of Objection	3
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues****Characteristics of the Site and Area**

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with predominately agricultural fields, farm holdings and dwellings on single

plots. To the north of the existing access lane to the site is a single storey and two storey dwellings with roadside frontages onto Mullybrannon Road. There are no other dwellings to the south of the access lane.

The Mullybrannon Road rises up from north to south where it flattens off just beyond the south side of the access. At the junction with Mullybrannon Road there is an existing access lane and to the south of this lane land has been cleared for another lane which is the subject of a separate application.

At the site is an existing single storey building which is currently being used as a farm building. The building is finished in pebbledash walls and natural slate roof tiles. There are a number of tiles missing from the roof.

### **Description of Proposal**

This is a full application for a proposed dwelling and garage (Amended Access and Additional Landscaping) at 150m South West of 35 Mullybrannon Road, Dungannon.

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

#### **Policy Consideration**

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

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

#### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty.

At the time of writing, 2no. third-party objections have been received from the following objectors.

1. Mr Brian Curran at No.35 Mullybrannon Road submitted objection letters on 24th June 2021, 2nd December 2021, and 17th December 2022
2. An objection letter was submitted on 30th June 2021 from Les Ross Planning on behalf of No.31 Mullybrannon Road

Mr Curran's dwelling is 48m north of the access lane to the application site and the owner/occupier of No.33 is 164m north of the access lane.

Both objection letters have raised the following issues

1. Principle of development - that the land should remain for agricultural. In response anyone can apply for planning permission on land within the countryside and it will be assessed whether it meets any of the policies. The objectors at No.31 have also objected to the principle of a dwelling at this site and state no supporting evidence has

been submitted to demonstrate that the existing building meets all the requirements of CTY 3. In rebuttal any evidence submitted by the agent will be considered in the subsequent assessment of CTY 3.

2. Overlooking - The proposed property would lead to previously private areas of our property being overlooked by at least 5 second floor windows. The applicant had previously submitted drawings for a two-storey dwelling, but this has since been revised to single storey dwelling with a ridge height of 5.2m above finished floor level. I am content as the proposed dwelling is now single storey and there is a separation distance of 127m to the nearest gable wall of the proposed dwelling there will be not unacceptable overlooking into the private amenity space of No. 35. In a subsequent objection letter dated 17 Dec 2022 Mr Curran raised further concerns about overlooking. It is stated the front door step and windows will have a direct view of his property at No.35. The majority of the main living area is a long rectangular section at the furthest end of the site which will reduce the potential for overlooking. Mr Curran also raises concerns about the siting of the garage and it will result in view of a 9m x 5m wall from their garden. Views are not a material planning consideration in the planning assessment, and I am of the opinion there is a sufficient separation distance that the garage will not create unacceptable overlooking and there are no windows on the side elevation facing No.35.

3. Overshadowing - The ridge height of hilltop location will result in unreasonable overshadowing. The use of exterior electric lights will prevent the enjoyment of No. 35's living space. In rebuttal, the ridge height has been reduced since the objection was received. I consider the sufficient separation distance, retention of existing trees along the east boundary and proposed landscaping will mitigate against any exterior lighting at the application site. I am of the opinion there will be no direct overshadowing to No.35's rear amenity space due to the separation distance of 127m. Mr Curran also states exterior electric lights at the site and light from the windows will result in unreasonable overshadowing and their enjoyment of the evening and night sky. I consider enjoyment of views is not a material planning consideration.

4. Disturbance - When vehicles access the proposed laneway and dwelling noise can be heard in No. 35's living room. In rebuttal, there was already a laneway to the dwelling at No. 35 and this proposed is for a new shared laneway to No. 35. I consider there will not be unacceptable disturbance due to the proposal.

5. Overbearing - The scale of the proposed dwelling and hilltop location will have an oppressive impact on our property. In rebuttal, the applicant has since reduced the ridge height of the proposed dwelling. Mr Curran states the proposed garage will feel overbearing from his property but I am content as there is a separation distance of 127m this is adequate for the proposed dwelling not to feel overbearing to No. 35.

6. Out of Character - The design of the proposed development is out of character with 2no. bungalows and 2no, regular two storey houses in the immediate area. In rebuttal, the applicant has since submitted a revised design and the proposed dwelling has been reduced to single storey. I am content the scale and massing of the dwelling is now in character with the surrounding area.

The objectors at No. 31 have raised concerns that the visual impact of the proposed dwelling and that it does not meet CTY 3. Subsequently since this objection the agent has lowered to ridge height of the dwelling to 5.2m which I am content is acceptable. The objector also states there is a limited sense of enclosure at the site and it will primarily rely on new landscaping. In rebuttal the applicant has proposed to site the dwelling in the lowest topography corner of the field as possible and new landscaping will assist in the integration of the proposed dwelling and garage.

7. Road Safety - The objector has concerns about another access onto a narrow single-track road. DFI roads were consulted about the proposal when it was three lanes and responded with no concerns and it has since been reduced to two lanes which is a lesser scheme.

### Planning History

#### Adjacent site

LA09/2019/0145/O - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon, BT71 7ER - Permission Granted 19.04.2019

LA09/2019/0818/RM - Replacement Dwelling - 160m South East of 35 Mullybrannon Road, Dungannon - Permission Granted 11.09.2019

#### Application site history

LA09/2021/0090/F - Replacement access laneway to dwelling (Amended Access) - 37 Mullybrannon Road, Dungannon - Application under consideration

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

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

#### Dungannon and South Tyrone Area Plan 2010

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

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

#### PPS 3 - Replacement Dwellings

The building to be replaced is single storey with pebbledash external walls and natural slate roof tiles. There are a number of tiles missing from the roof, but I am content the walls are substantially in-tact. There are the remains of a blocked-up window on the

elevation. The building is divided into three rooms. The building from the rear and side elevations and there are no windows readily visible. I am content in all probability the building was previously a dwelling and can be considered eligible for replacement.

I completed a search for the site on PRONI historical maps and there has been a building on the site since 1832 - 1846. As the building has a single access lane that divides off to 2 no. separate buildings I would be content in all probability this was a dwelling. The building to the south has already been replaced in a separate application and if the building in this application was a shed with that dwelling it more than likely would have been sited beside it and not have a separate entrance. I am of the opinion there was previously a dwelling at this site which can be replaced.

I would consider the building is a vernacular dwelling as it is single story with a long rectangular form and there are three rooms are connected internally. There is a single entrance from the front and the majority of the windows have a vertical emphasis and are on the front elevation. There is a chimney in a room which is accessed off the main door which would have been the kitchen area.

I consider the dwelling does not make an important contribution to the character of the local area as it is set back from Mullybrannon Road and there are minimal critical views from this road. There are only long-distance views from the main Dual Carriageway between Dungannon and Ballygawley. The applicant has not proposed to retain the building as the new access will go through the location of the existing building.

I am content the proposed dwelling is sited within the established curtilage of the site which is part of a larger agricultural field. The proposed dwelling will be located approximately 16m from the dwelling to be replaced but as this building is located along the southern boundary of the field, I consider this is to restricted to accommodate a modern family sized dwelling.

In initial drawings submitted by the applicant, a large two storey dwelling was proposed with a ridge height of 8.8m to finished floor level. The site is on elevated land where the topography rises up from the Mullybrannon Road to the application site. Initially, I was of the opinion that the large dwelling could be mitigated against by an extensive landscaping scheme with trees and hedging. However, with further consideration especially on the critical views from the Dual carriageway it was agreed to ask the applicant to reduce the size to single storey and reduce the massing. I am content the low ridge height of 5.2m will allow the dwelling to integrate into the landscape.

I am content the design of the proposed dwelling is acceptable as the external finishes are grey slate roof tiles, smooth coloured render walls and natural stone. I consider this will fit with a similar dwelling which is under construction at No. 35. A single storey garage is proposed with the same external finishes as the dwelling, so I have no concerns.

There is currently an access to the dwelling to be replaced and as this is a replacement dwelling there is no statutory requirement to upgrade the access. However, the access arrangements are being dealt with under a separate application for a new access to serve both new dwellings under LA09/2021/0090/F.

Overall, I am content the proposal meets all the criteria in CTY 3 as there is a dwelling to

be replaced and the proposal will not have a significantly greater impact than what is currently on site.

#### PPS 13 - Integration and Design of Buildings

The proposed dwelling is situated on a site which is elevated, and the topography rises up from 72.5 at the roadside to 79m at the start of the access but levels off at the site and the land starts to fall away slightly. I am content a single storey will not be a prominent feature at this location and the applicant has proposed extensive landscaping along the lane and around the site. There are critical views of the site from the dual carriageway, but the landscaping will mitigate against any critical views. Overall, I am content the proposed dwelling and garage will integrate into the countryside.

#### PPS 14 - Rural Character

As stated earlier I am content the proposal will not be a prominent feature in the landscape or lead to a suburban style build-up of development. The proposal is to replace an extant dwelling so will not have a greater impact. The single storey dwelling is in character with the surrounding area. Overall, I am content the proposal will not have an unacceptable impact on rural character.

#### PPS 3 Access, Movement and Parking

##### Policy AMP 2 - Access to public roads

LA09/2019/0145/O and LA09/2019/0818/RM granted approval for a replacement dwelling at No. 37 Mullybrannon Road. There is an existing lane to this site and as it was a replacement there was no statutory requirement to consult DFI Roads or upgrade the access. The applicant has proposed a new access to serve the dwellings and Roads were consulted and had no concerns subject to splays of 2.4m x 90m.

#### Other Considerations

I completed checks on the statutory map viewers and there are no other NED, HED or flooding issues at the site.

#### **Summary of Recommendation:**

Approve is recommended

I am content the proposal is recommended for approval as it complies with all the criteria in CTY 3, CTY 13 and CTY 14 in PPS 21 ¿ Sustainable Development in the Countryside.

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2



Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 90.0m in both directions and any forward sight distance shall be provided in accordance with drawing 01 Rev 4 date stamped received 19 OCT 2022. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

#### Condition 3

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

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

#### Condition 4

The existing dwelling coloured green on the site location plan Drawing No 05 date stamped 23 JAN 2022 shall be demolished prior to the occupation of the proposed dwelling and all rubble and foundations removed from the site.

Reason: To prevent an accumulation of dwellings on the site.

#### Condition 5

The existing natural screenings of the site, as indicated on approved drawing No 01 Rev 4 date stamped received 19 OCT 2022 shall be retained unless necessary to prevent danger to the public in which case a full explanation along with a scheme for compensatory planting shall be submitted to and agreed in writing with the Council, prior to removal.

Reason: To safeguard the amenities of neighbouring occupiers and in the interests of visual amenity and to ensure that the proposed development does not prejudice the appearance of the locality.

#### Condition 6

All hard and soft landscape works as detailed on drawing No. 01 Rev 4 bearing the stamp dated 19 OCT 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 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.

<b>Case Officer:</b> Gillian Beattie
<b>Date:</b> 19 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 January 2021
<b>Date First Advertised</b>	4 February 2021
<b>Date Last Advertised</b>	2 February 2021
<b>Details of Neighbour Notification (all addresses)</b>  The Owner / Occupier 35 Mullybrannon Road, Dungannon, Tyrone, BT71 7ER The Owner / Occupier 37 Mullybrannon Road, Dungannon, BT71 7ER The Owner / Occupier 35 Mullybrannon Road Dungannon Tyrone BT71 7ER	
<b>Date of Last Neighbour Notification</b>	18 January 2023
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR	
<b>Drawing Numbers and Title</b>  Garage Plans      Plan Ref: 03 Proposed Plans    Plan Ref: 02 Site Location Plan   Plan Ref: 01	

<b>Notification to Department (if relevant)</b>
Not ApplicableNot ApplicableNot ApplicableNot Applicable

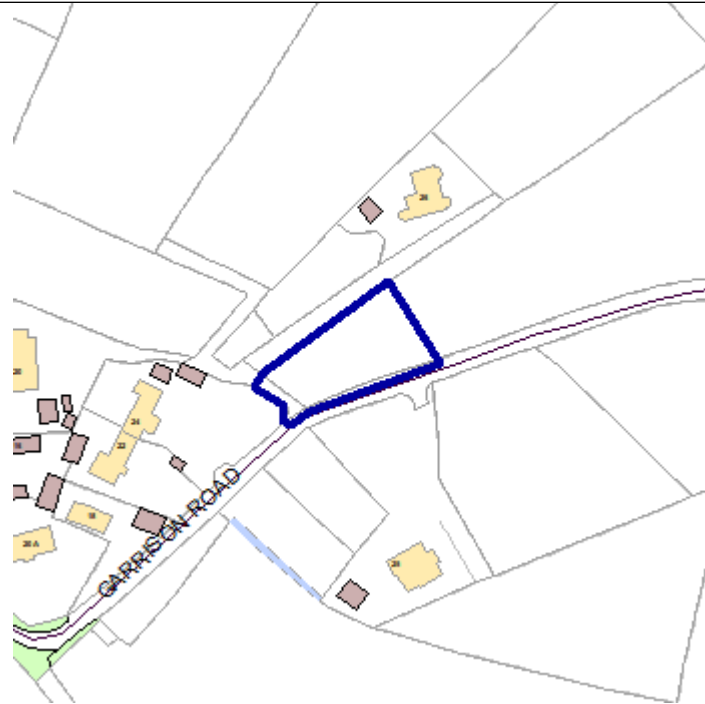


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/1260/O	<b>Target Date:</b> 22 October 2021
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Approx 80M East Of 24 Garrison Road Magherafelt
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Donna & Danny O'Shea 3 Hanson Lane Huddersfield	<b>Agent Name and Address:</b> Cmi Planners 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Coleraine	Substantive: TBCResponseType: FR

### Representations:

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

### Summary of Issues

No third party representations were received during the assessment of this application.  
All material considerations have been addressed within the determination below.

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

The site is located approx. 80m East of 24 Garrison Road, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is located on the edge of a small group of dwellings and is accessed via lane way, leading off the Garrison Road. This lane also appears to serve the dwelling at No 26. The site is a section of a larger agricultural field, the roadside boundary to the south to south- east is comprised of mature vegetation and trees and the boundary to the North and west is comprised of scattered mature vegetation and the boundary to the east is undefined.

## **Description of Proposal**

This application seeks outline planning permission for a dwelling and garage on a farm dwelling

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

### **Policy Consideration**

#### **Representations**

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

#### **Assessment**

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

#### **Planning History**

LA09/2018/0800/O – Proposed dwelling and garage, Land Between 20 & 26 Garrison

Road, Toberhead Knockloughrim, for Donna O’Kane, application withdrawn

### Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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.

PPS 21, Policy CTY1, 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)

With regard to (a) the applicant has provided details surrounding the farm business ID. DAERA were consulted. The farm business Id provided on the P1C form belongs to a Christopher O’Kane, 12 McCooles Road, Magherafelt and not the applicant for the proposed development. DAERA were consulted on the



application and responded to say that the business Id provided was active and established for 6 or more years. I contacted the agent to enquire if the Farm Business Id holder (Mr Christopher O’Kane) had given permission for his farm business ID to be used but I did not get a response to my question.

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.

With respect to (c), the proposed development is located on a portion of a larger agricultural field on the edge of a group of third party dwellings. The proposed group of established buildings on the farm is discounted as it is a domestic garage associated with the dwelling house at No 24 (see photo below). This is not included in the blue line of the application. On inspection during my site visit it was evident that the proposed building associated with the farm business was a domestic garage used to store toys, bikes etc (see photo below).





I contacted the agent to enquiry about this and if there were any other group of buildings on the farm associated with the farm business I'd provided. The agent responded to say that the dwelling at No 24 has family members in it and the land is split pretty much in two by the main Derry to Belfast Road, with this road due to be upgraded to dual carriageway standards in the future he wishes to establish a base on this side of the road. A land registry check confirmed that the land is owned by Christopher O'Kane. Therefore the application fails to meet this policy test.

The P1 form indicates that the proposal includes the alteration of an existing access to the public road. DFI Roads were consulted on the application, and they responded to say that they were content subject to conditions.

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 is for outline planning permission and details of design have not been submitted at this stage. The site is not sited to cluster with an existing group of building on the farm and potentially will not integrate sufficiently into the 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 the area. The site is not located to visually link or cluster with any existing farm buildings and therefore may cause detrimental change or erode the rural character of the area. Therefore, this proposal is contrary to the criteria set out in policy CTY13 &14.

### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

### **Summary of Recommendation:**

Refuse is recommended

### Refusal Reasons

#### Reason 1

The application fails to meet the policy criteria of PPS 21, CTY 10 in that the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

#### Reason 2

This proposal is contrary to the criteria set out in policy CTY13 &14, as there is no group of buildings to visually link or cluster with and therefore would fail to integrate successfully into the existing landscape.

**Signature(s):** Siobhan Farrell

**Date:** 16 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	27 August 2021
<b>Date First Advertised</b>	7 September 2021
<b>Date Last Advertised</b>	7 September 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 22 Garrison Road Knockcloghrim Londonderry BT45 8RD The Owner / Occupier 25 Garrison Road, Magherafelt, BT45 8RD The Owner / Occupier 26 Garrison Road Knockcloghrim Londonderry BT45 8RD The Owner / Occupier 18 Garrison Road Knockcloghrim Londonderry BT45 8RD The Owner / Occupier 24 Garrison Road Knockcloghrim Londonderry BT45 8RD	
<b>Date of Last Neighbour Notification</b>	20 September 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Coleraine-Substantive: TBCResponseType: FR	
<b>Drawing Numbers and Title</b>  Site Location Plan   Plan Ref: 01	

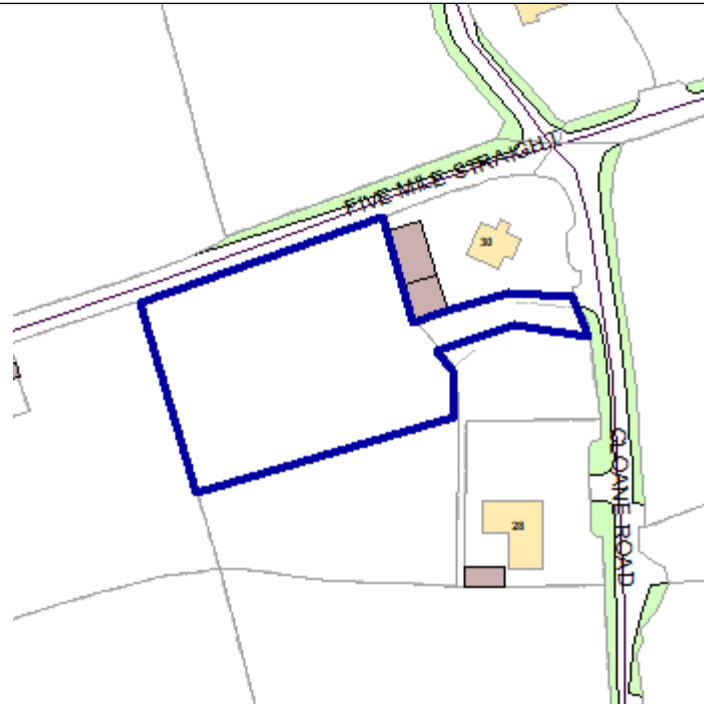
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/1286/O	<b>Target Date:</b> 28 October 2021
<b>Proposal:</b> Dwelling and garage under CTY 10	<b>Location:</b> 30M South West Of 30 Cloane Road Draperstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Sean Gallagher 30 Cloane Road Draperstown	<b>Agent Name and Address:</b> Cmi Planners Ltd 38 Airfield Rd Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
	DAERA - Coleraine	Substantive: TBCResponseType: FR
	Historic Environment Division (HED)	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR

**Representations:**

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

**Summary of Issues**

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

**Characteristics of the Site and Area**

The site is located 30M South West Of 30 Cloane Road, Draperstown and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a roadside portion of a large agricultural field. The elevation of the site is relatively flat. The boundaries to the west is comprised of very low level vegetation, the boundary to the south is undefined and the boundary east is undefined with a farm shed located along this boundary. The boundary to the North (roadside boundary) is comprised of low level hedgerows. The Five mile straight road runs along the North of the site. H&A Mechanical Services are located directly opposite the site to the north. The surrounding area is rural in character with scattered dwellings and farm holdings.

### **Description of Proposal**

This application seeks outline planning permission for a dwelling and garage under CTY 10.

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

#### **Policy Consideration**

##### **Planning History**

There is no planning history relevant to the determination of this application.

##### **Representations**

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

##### **Assessment**

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

##### **Planning History**

There is no planning history relevant to the determination of this application.

##### **Representations**

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



## Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10. There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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.

PPS 21, Policy CTY1, 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)

With regard to (a) the applicant has provided details surrounding the farm business ID. DAERA were consulted and responded to say that the farm business Id provided had been in existence for 6 or more years but was not active. Evidence of the farm activity was requested from the agent several times and some receipts were eventually provided. These were only for drains. I contacted the agent for further clarity around the use of the land and the farm activity but at the time of writing this report a response had not been received. Following an internal group meeting it was agreed that these were insufficient to show sufficient farming activity. Therefore the proposal fails to meet the criteria of this policy.

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.

With respect to (c), the proposed development is located on roadside portion of an agricultural field. The proposed group of existing farm buildings on the farm as indicated on drawing no 01, date stamped 02nd September 2021, are discounted as they are not included in the red line of the application site or outlined in blue to indicated the applicant owns them. I emailed the agent to enquire about the sheds and at the time of writing this report, no response had been received. Therefore the application fails to meet this policy test.

The P1 form indicates that the proposal includes the alteration of an existing access to the public road. DFI Roads were consulted on the application, and they responded to say that they were content subject to conditions.

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 is for outline planning permission and details of design have not been submitted at this stage. The site is not sited to cluster with an existing group of building on the farm and potentially will not integrate sufficiently into the landscape, especially as it is a roadside location and existing vegetation is all very low level.

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 the area. In my opinion the proposal may cause detrimental change or erode the rural character of the area. Therefore, this proposal is contrary to the criteria set out in policy CTY13 &14.

#### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

#### **Summary of Recommendation:**

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

##### Reason 2

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 is currently active for 6 years or more. Also, the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

This proposal is contrary to the criteria set out in policy CTY13 &14, as this is a road side location and there is insufficient existing vegetation to adequately screen the proposal and therefore would fail to integrate successfully into the existing landscape.

**Case Officer:** Siobhan Farrell

**Date:** 20 January 2023

ANNEX	
Date Valid	2 September 2021
Date First Advertised	14 September 2021
Date Last Advertised	14 September 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 28 Cloane Road Draperstown Londonderry BT45 7EF The Owner / Occupier 30, Five Mile Straight, Cloane, Draperstown, Londonderry, BT45 7EG, (Uprn The Owner / Occupier 28, Five Mile Straight, Cloane, Draperstown, Londonderry, BT45 7EG, (Uprn	
Date of Last Neighbour Notification	23 September 2021
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2021/1286/O Proposals: Dwelling and garage under CTY 10 Decision: Decision Date:  Ref: H/1978/0405 Proposals: RETIREMENT BUNGALOW Decision: PG Decision Date:  Ref: H/1978/0285 Proposals: EXTENSION TO DWELLING Decision: WITHDR Decision Date:  Ref: H/1991/0279 Proposals: ALTERATIONS AND ADDITIONS TO DWELLING Decision: PG Decision Date:  Ref: H/2012/0327/O	

Proposals: Proposed farm dwelling and garage

Decision: PG

Decision Date: 12-APR-13

Ref: H/2015/0085/RM

Proposals: Proposed farm dwelling and garage in accordance with H/2012/0327/O

Decision: PG

Decision Date: 09-JUL-15

Ref: H/1973/0080

Proposals: ADDITIONS TO HOUSE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DAERA - Coleraine-Substantive: TBCResponseType: FR

Historic Environment Division (HED)-Substantive: YResponseType: FR

DFI Roads - Enniskillen Office-Substantive: YResponseType: FR

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/1385/F	<b>Target Date:</b> 16 November 2021
<b>Proposal:</b> Widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road.	<b>Location:</b> 250M North Of 2 Gortinure Road Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Rafferty 56 Carhill Road Garvagh Coleraine BT51 5PF	<b>Agent Name and Address:</b> Gerard McPeake Architectural Ltd 31A Main Street Limavady BT49 0EP
<b>Executive Summary:</b>  To Committee - Refusal - Contrary to AMP 3 of PPS 3	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	DFI Roads - Enniskillen Office	Full & RM Resp.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Refer to Consultee comments returned 15/08/2022. No additional information submitted since

### Representations:

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

## Summary of Issues

To Committee – Refusal – Contrary to AMP 3 of PPS 3

## Characteristics of the Site and Area

This site is located approximately 3.5 km north of Maghera, in the open countryside as defined by the Magherafelt Area Plan 2015. The site location is listed as 250m north of 2 Gortinure Road, Maghera, however access to the site is proposed from the A29 Moneysharvin Road (protected route). There is an existing laneway to another dwelling which will be used for access. Mature trees exist along the road side with the site effectively screened by existing trees. All boundaries of the site are very well defined with mature vegetation. I note that on the ground is the footings of the approved garage. The immediate and wider setting are characterised by predominately agricultural land uses with a scattering of residential properties.

### Relevant planning history

LA09/2020/1508/F - Construction of two storey dwelling & detached garage. - 250m North off 2 Gortinure Road, Maghera - Permission Granted 20.04.2021

LA09/2016/1012/RM - Construction of two storey dwelling and detached garage - 250m North off 2 Gortinure Road, Maghera - Permission Granted 11.04.2017

H/2012/0190/O - Construction of dwelling house and detached garage - 250m North off 2 Gortinure Road, Maghera - Permission Granted 23.08.2013

### Representations

There was only one neighbour notification letter sent out however no objections received on this application.

## Description of Proposal

This is a proposed full application for the Widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road, the site is located 250m North off 2 Gortinure Road, Maghera.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

Magherafelt Area Plan 2015

Mid Ulster 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 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'.

I note that initially the application was for the alteration of previously approved vehicle access position, by relocating access south off the currently approved position. During the planning process the application was amended to read the widening of previously approved vehicle access position to allow paired access onto the Moneysharvin Road. In terms of policy AMP 2 of PPS 3, I note that the intention is to widen the access as per approved under LA09/2020/1508/F, I must note that the Moneysharvin Road is a Protected Route. I note that a consultation was sent to DFI Roads, who in their initial response PPS3 AMP3 Access to Protected Routes (Consequential Revision) is applicable. The proposed access is onto a Protected Route A29 Moneysharvan Road Maghera. P1 - New access stated. The previous access LA09/2020/1508/F was approved using an existing laneway. Annex 1 (b) Policy AMP 3 – A Farm dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 14 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route. DFI Roads opinion is that this is a new access which is not facilitated within the policy. I note that after the application was amended to reflect the widening of the existing access. I must note at this point that as the previous application was able to demonstrate access from a minor road therefore the consequential revision would not apply to this application.

I note a further consultation was sent to DFI Roads in relation to the widening of the access, in their response DFI Roads stated PPS3 AMP3 Access to Protected Routes (Consequential Revision) is applicable. The proposed paired access is onto a Protected Route A29 Moneysharvin Road Maghera. The Council Planning department should request an amended drawing to show –

1. A fully annotated drawing showing dimensions at the access with 2.4 x 160 metre visibility splays.
2. Showing no impact on the existing verge layout.
3. All works to be completed behind the existing verge line.

I note that the agent stated they would work directly with DFI Roads to try and resolve the issue. However after some time passed there was no resolution to be found. Given this I must refer to the view that this is essence creating an additional access onto the Protected Route, given such I must recommend refusal given that it is direct conflict with

AMP 3 of PPS 3.

I note that the ancillary works must also comply under CTY 13, with direct comparison with that of the approved access, I note that visually there is a minimal difference. I am content that the access will not conflict with CTY 13.

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.

I have no flooding, ecological or residential amenity concerns.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

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

**Signature(s):** Peter Henry

**Date:** 18 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	21 September 2021
<b>Date First Advertised</b>	5 October 2021
<b>Date Last Advertised</b>	5 October 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 107A Moneysharvan Road, Maghera, Londonderry, BT46 5PT	
<b>Date of Last Neighbour Notification</b>	29 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: TBC DFI Roads - Enniskillen Office- DFI Roads - Enniskillen Office-Full & RM Resp.docx DFI Roads - Enniskillen Office-Refer to Consultee comments returned 15/08/2022. No additional information submitted since	
<b>Drawing Numbers and Title</b>  Site Layout or Block Plan Plan Ref: 02/1 Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	

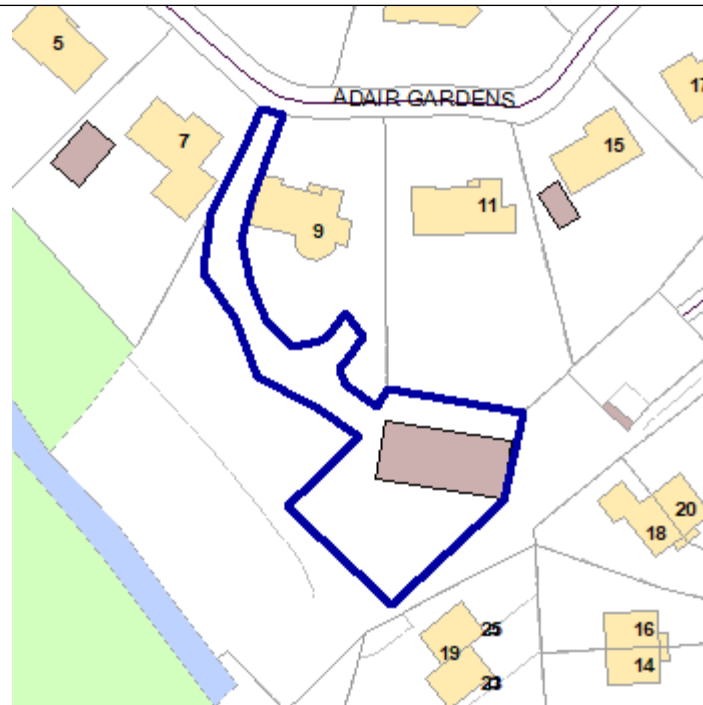
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2021/1575/RM	<b>Target Date:</b> 27 December 2021
<b>Proposal:</b> Proposed demolition of workshop & erection of 1no. 1.5 storey detached dwelling	<b>Location:</b> To The Rear Of 11 Adair Gardens Cookstown
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> R & F Developments 90 Oldtown Road Castledawson BT45 8BZ	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR

**Representations:**

Letters of Support	0
Letters of Objection	2
Letters Non Committal	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

**Summary of Issues****Characteristics of the Site and Area**

There does not appear to be any significant changes on site or in the immediate vicinity from the outline application on site, as such the characteristics of the site and area remain as per LA09/2017/0150/O.

The site is located within the limit of development for Cookstown as defined within the Cookstown Area Plan 2010. Located approximately 1km south west of the town centre the site lies within an existing residential estate to the rear of properties 9 and 11 Adair Gardens, and forms part of the curtilage of No. 9. Access to the proposal is gained via No 9 Adair Gardens which connects onto Adair Drive and in turn the Westland Road South. The development road to the proposed dwellings is via the side of no 9, removing the attached garage and adjacent to the boundary with no 7. The majority of the garden of no 9 is utilized for the proposal including that area on which the large garage / workshop structure is located.

On site at present are a detached single storey dwelling with attached garage and large garage / workshop structure within the rear garden. This structure sits on significantly lower ground to that of the dwelling.

Site boundaries are a mixture of conifer type hedging and timber fencing. Within the south western part of the site is existing woodland/scrub area. Levels within the site vary considerably from Adair Gardens estate road to the southern corner which sits at a much lower level. The immediate area is residential and Adair Gardens supports a variety of house types and sizes. Some two storeys, some storey and a half and some single storey. Levels also vary within the estate with no 9 being at a lower FFI than properties located to the north and east, and at a higher level than the detached garage / workshop located in the southern corner of the site. The private rear garden of No. 11 Adair Gardens backs onto the site, its boundary defined by 1-6 m high close boarded fencing.

A watercourse runs adjacent the south east edge of the red line boundary. The watercourse flows directly into the Upper Ballinderry River SAC, approx. 30m downstream.

### **Description of Proposal**

This is a reserved matters application for the demolition of a workshop and the erection of a 1.5 storey dwelling on lands to the rear of 11 Adair Gardens Cookstown. The proposal gained outline approval under planning application LA09/2017/0150/O on 22nd November 2018. Revised siting was submitted on 24 October 2022 and is the development under consideration

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

#### **Policy Consideration**

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

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

Cookstown Area Plan 2010

Strategic Planning Policy Statement for Northern Ireland

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 7: Quality Residential Environments

Planning Policy Statement 7 (Addendum): Safe Guarding the Character of Established Residential Areas

Creating Places

Development Control Advice Note 8: Housing in Existing Urban 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.

#### Planning History

- o I/2001/0815/F - Domestic garage and store - 9 Adair Gardens - Granted 14th January 2002
- o I/2003/1002/F - Extension & alterations to dwelling - 9 Adair Gardens - Granted 11th March 2004
- o I/2013/0370/O - Proposed residential development incorporating the retention of the existing garage - Lands to the rear of 9 Adair Gardens - Granted 5th October 2016
- o LA09/2017/0150/O - Proposed demolition of workshop and erection of 1 No. 1.5 storey dwelling - To the rear of nos. 9 and 11 Adair Gardens - Granted 22nd November 2018 (outline approval on site)
- o LA09/2019/1213/O - Proposed renewal of outline planning approval I/2013/0370/O - Lands to the rear of 9 Adair Gardens - Granted 5th December 2019
- o LA09/2021/0639/F - Proposed extension and alterations to existing dwelling - 9 Adair Gardens - Granted 8th June 2021
- o LA09/2022/0499/RM - Proposed 2 no. 1.5 storey detached dwellings - To the rear of 11 Adair Gardens - Under Consideration

#### Consultees

1. DfI Roads were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

#### Key Policy Consideration

Cookstown Area Plan 2010 - Cookstown Area Plan is the extant Plan for the area and identifies the site as being within the settlement limits of Cookstown on un-zoned whiteland.

The Plan has defined the settlement limits and allows for development within these limits



provided it meets with regional policy requirements of Policy SETT 1 Settlement Limit's. Policy SETT 1 gives favourable consideration to development proposals within settlement limits subject to general criteria including the proposal being in accordance with prevailing regional planning policy and the policies, requirements and guidance contained in Part 3 of the Plan.

The 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. In term of housing, the SPPS gives specific provision for Housing in Settlements subject to a number policy provisions. It highlights the need to deliver sustainable forms of development, that the use of greenfield land for housing should be reduced and more urban housing accommodated through the recycling of land and buildings and the encouragement of compact town and village forms. The SPPS does not present any change in policy direction with regards to Housing in Settlements as such, existing policy will be applied i.e. Planning Policy Statement 7: Quality Residential Environments and the Addendum to Planning Policy Statement 7: Safe Guarding the Character of Established Residential Areas

Planning Policy Statement (PPS) 7 Quality Residential Environments - is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in this policy.

This proposal at outline stage was assessed against the relevant policies and aforementioned criteria under planning application LA09/2017/0150/O and the principle of development established. This Reserved Matters proposal complies with the planning conditions set at outline including and below, I will deal with the matters reserved including siting, design, external appearance of the building, the means of access thereto and landscaping under criteria a-i of PPS7 below.

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

I would agree with the case officer on the outline application on this site, that this form / pattern of design and layout departs somewhat from the more distinct settlement character of Adair Gardens, however the chosen location of the site will allow this dwelling along with the 2 others approved within the same lands to create their own sense of place the rear of 9 and 11 Adair Gardens established street scene hidden from the main estate road. Furthermore, I am content that the proposed 1.5 storey dwelling is of an appropriate siting, orientation, size, scale and design (including finishes) which alongside ancillary works should integrate on to the site, respecting the surrounding residential context and the character and topography of the site. The dwelling will have a small garden to the front and larger garden / amenity area approx. 120m2 to the rear.

2. 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;

No issues in relation to these features given the response from statutory consultees

under the outline application on site.

3. 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;

I do not consider it appropriate to ask for any public open space given the scale and size of the proposal and am content at least 70m<sup>2</sup> private amenity space as promoted in 'creating places' has been provided to the rear of the proposed dwelling. I am also content that the private amenity space is to be enclosed by approx. 1m high wooden post and rail fencing. Some additional planting proposed will help to soften the visual impact of the development and assist in its integration with the surrounding area.

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

I am dealing solely with an application for a dwelling in which local neighbourhood facilities in their own right would not in my view be necessary.

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

There are no footway links provided between this development to the immediate stretch of Adair Gardens it is accessed off and the Westland Rd. There is however footpaths within the wider Adair housing development to the Westland Road which provides access to public transport. Given the nature of the proposal and access serving the development I do not consider the provision of a footway to the front of the site necessary, that in this case private car access is sufficient.

6. adequate and appropriate provision is made for parking;

In-curtilage parking for 2 vehicles has been provided. This is satisfactory and DfI Roads are in agreement.

7. the design of the development draws upon the best local traditions of form, materials and detailing;

The design of the proposed dwelling is considered appropriate to the site and locality. The property, which is 1.5 storey of bungalow appearance, has a simple rectangular shaped floor plan and a pitched roof construction with only a small centrally located single storey front porch and external chimney along one gable. Materials finishes to the property include flat black concrete roof tiles, grey dash walls with a smooth plaster base and black upvc window frames and doors.

8. 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 am content this proposal should not create conflict with adjacent largely residential land uses. That there should be no unacceptable adverse effect on existing or potential

neighbouring properties in terms of overlooking, loss of light or overshadowing due to the location, orientation, size, scale and design of the dwelling, and the existing mix of close-boarded fencing and vegetation bounding the site to the north and south and additional planting and fencing proposed. Given the nature of the residential nature of the proposal, I have no noise or other disturbance concerns.

9. the development is designed to deter crime and promote personal safety.

I am satisfied that the dwelling is to be located in an established residential location whereby there are enough dwellings close by and street lighting to deter crime to some degree.

On the basis of the above assessment it is clear that the proposal under consideration complies with all the criteria set out in policy QD 1 of PPS 7.

PPS 7 (Addendum) - Safe Guarding the Character of Established Residential Areas

I am satisfied that this proposal complies with Policy LC 1 of the Addendum to PPS 7, Protecting Local Character, Environmental Quality and Residential Amenity. The proposal will not result in a significantly higher residential density in this area, the development is in keeping with the existing character of the area and unit sizes are not less than recommended in Annex A of this policy.

#### Representations

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 2 third party objections had been received from the owners / occupiers of nos. 8 and 12 Adair Garden, Mr Thornton and Mr Donaldson respectively whose properties are located opposite the proposed entrance to the site. The issues raised included:

- o Dwelling's close proximity to Westbury housing development.
- o Road Safety concerns - that presently not enough room on Adair Gardens road for bin/oil/coal lorries when cars are parked on roadway, another dwelling will increase issue. A downhill two turn bend in the road into Adair Gardens already presents dangers for vehicles emerging from driveways. Additional traffic impact of this development during construction. The proposal will create conflicts between pedestrians, cyclists and vehicular movements thereby creating a road safety hazard.
- o Out of character with housing in area and would have an unacceptably adverse impact on the amenities of the neighbouring properties and the surrounding area by reason of overlooking, loss of privacy and being visually overbearing. It is likely to result in noise, disturbance and nuisance to the detriment of neighbours residential amenity.
- o The proposed vehicular entry/exit to the site would allow vehicle lights to shine directly into no. 8 Adair Gardens situated on higher grounds to no. 11.
- o Detrimental impact on bat habitat.

The issues raised above were considered and the principle of this development was established under the outline under planning application on site, LA09/2017/0150/O. I am content this reserved matters application meets the conditions set at outline and for the reasons detailed further above in the main assessment of the proposal the matters reserved including the siting, design, external appearance of the building and landscaping thereto are acceptable for the site and locality. In terms of roads safety Dfl

Roads were consulted at outline and have been re-consulted under this application and have raised no concerns.

Taking all of the above into consideration I would recommend the approval of this application.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

The development to which this approval relates must be begun by whichever is the later of the following dates:-

- I. The expiration of a period of 5 years from the grant of outline planning permission; or
- II. The expiration of a period of 2 years from the date hereof.

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

**Condition 2**

All proposed landscaping as detailed on Drawing No. 02(Rev 01), bearing the date stamp received 24 OCT 2022, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any trees or shrubs which, within a period of 5 years from the completion of the development, 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: To ensure the development integrates into the countryside and to ensure the maintenance of screening to the site.

**Condition 3**

Prior to the occupation of the dwelling hereby approved, the boundary treatments defining the curtilage shall be constructed as detailed on Drawing No. 02(Rev.01), bearing the date stamp received 24 OCT 2022.

Reason: To ensure that boundary treatments are provided in a timely manner in the interests of residential amenity.

**Condition 4**

The vehicular access, including visibility splays of 2.4m x 33m in both directions onto the public road and any forward sight distance shall be provided in accordance with on Drawing No. 02(Rev.01), bearing the date stamp received 24 OCT 2022, prior to the

commencement of any other works or 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.

**Case Officer:** Emma Richardson

**Date:** 26 January 2023

ANNEX	
<b>Date Valid</b>	1 November 2021
<b>Date First Advertised</b>	16 November 2021
<b>Date Last Advertised</b>	16 November 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 8 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 20 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 18 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 16 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 12 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 11 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 9 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 7 Adair Gardens Cookstown Tyrone BT80 8PS The Owner / Occupier 8 Adair Gardens Cookstown Tyrone BT80 8PS	
<b>Date of Last Neighbour Notification</b>	21 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR	

**Drawing Numbers and Title**

Proposed Plans      Plan Ref: 03  
Site Layout or Block Plan   Plan Ref: 02  
Site Location Plan   Plan Ref: 01

**Notification to Department (if relevant)**

Not ApplicableNot Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/1652/F	<b>Target Date:</b> 11 January 2022
<b>Proposal:</b> Proposed entrance to approved site	<b>Location:</b> 85M East Of 3 Tulnacross Road Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Wesley Carson 245 Orritor Road Cookstown	<b>Agent Name and Address:</b> Terry Murphy 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>  To Committee - Refusal - Contrary to PPS 15.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	Rivers Agency	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to PPS 15.

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

The site is located approximately 1.1km west of development limits of Orritor, from such the site is located within the open countryside as per defined by the Cookstown Area Plan 2010. I note that the site is identified as 85m East of 3 Tulnacross Road, Cookstown in which the red line covers the front portion of a treed area that leads to a previously approved site LA09/2019/1247/O. The predominate land use in the area is characterised by agricultural land uses with a scattering of residential properties. However there is a commercial business across from the proposed site.

### **Relevant planning history**

LA09/2019/1247/O - Replacement Dwelling - 85m East of 3 Tulnacross Road  
Cookstown – Permission Granted – 27/11/19

### **Representations**

There were three notification letter were sent out however no representations were received on this application.

## **Description of Proposal**

This is a proposed full application for a proposed entrance to approved site, the site is located 85m East of 3 Tulnacross Road Cookstown. I note that the site intends to create a new access for LA09/2019/1247/O.

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

### **Policy Consideration**

Cookstown Area Plan 2010

Mid Ulster 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 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'.

In terms of policy AMP 2 of PPS 3, I note that the intention is to create a new access for

previous approval LA09/2019/1247/O, moving away from the need to access off a shared laneway as this would give direct access onto the public road. I note that a consultation was sent to DfI Roads, who in their response confirmed that they had no objection subject to the relevant conditions and informatives being added. I am content that the proposed access works have been shown to be acceptable under AMP 2 of PPS 3. From this then I am content that the proposed accesses will not prejudice road safety or significantly inconvenience the flow of traffic and the proposal does not conflict with policy AMP 3 relating to Protected Routes.

I note that the ancillary works must also comply under CTY 13, with direct comparison with that of the approved access, I am content that the access will not conflict with CTY 13.

I note that a consultation was also sent to Rivers Agency, who in their response stated that PPS15 Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains The Strategic Flood Map (NI) indicates that the site lies within the 1% AEP fluvial flood plain. DfI Rivers would consider that this proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1. In accordance with Revised PPS 15 - FLD 1, any development intended within the 1% AEP fluvial flood plain will require Planning Authority to deem the application to be an exception or overriding regional importance, before DfI Rivers will appraise a submitted Flood Risk Assessment.

I hold the view that this would fall under 'minor development' however the policy dictates that a Flood Risk Assessment be submitted. I note after a number of requests that no FRA was submitted.

Rivers went on to state in terms of FLD 2 Protection of Flood Defence and Drainage Infrastructure An undesignated watercourse traverses the site. The proposed development has no impact on the operational effectiveness of the existing watercourse and does not hinder access to enable maintenance. FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains The development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development and any impacts beyond the site.

PPS15 Policy FLD 4 Artificial Modification of Watercourses Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for the planning authority. Any culverting approved by Planning Authority will also be subject to approval from DfI Rivers under Schedule 6 of the Drainage Order 1973. These two approvals are independently necessary.

PPS15 Policy FLD 5 Development in Proximity to Reservoirs Not applicable to this site.

Given such I hold the view that this application must be recommended for refusal.

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.

I have no flooding, ecological or residential amenity concerns.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to PPS 15, Planning and Flood Risk, FLD 1, in that there is insufficient evidence provided to prevent flood risk.

**Signature(s):** Peter Henry

**Date:** 19 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	16 November 2021
<b>Date First Advertised</b>	30 November 2021
<b>Date Last Advertised</b>	30 November 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 2 Tulnacross Road, Cookstown, Tyrone, BT80 9NH The Owner / Occupier 3 Tulnacross Road, Cookstown, Tyrone, BT80 9NH The Owner / Occupier 291 Orritor Road, Cookstown, Tyrone, BT80 9NE	
<b>Date of Last Neighbour Notification</b>	10 December 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  Rivers Agency-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR DFI Roads - Enniskillen Office-Substantive: YResponseType: FR	
<b>Drawing Numbers and Title</b>  Site Location Plan   Plan Ref: 01	

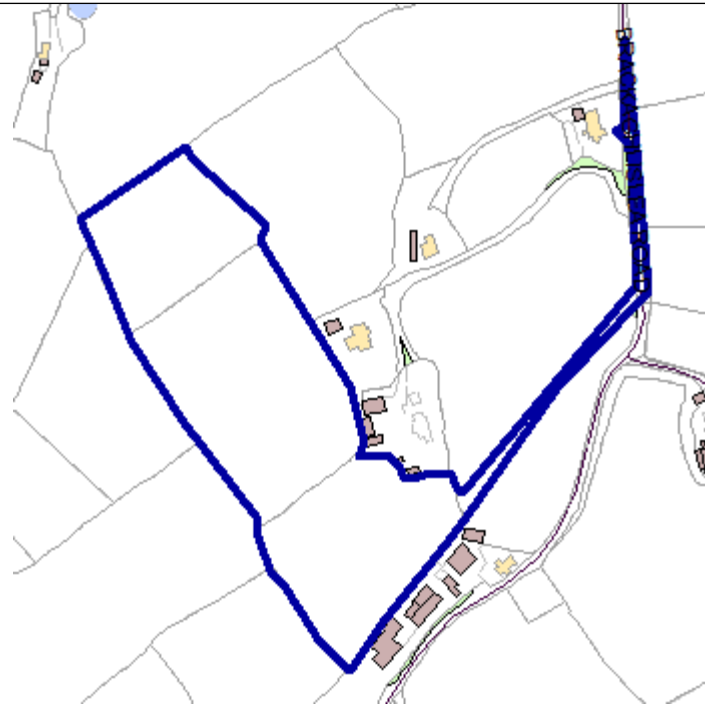
**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.7
<b>Application ID:</b> LA09/2021/1739/F	<b>Target Date:</b> 1 July 2022
<b>Proposal:</b> Proposed sand and gravel extraction using dry screeners/loading shovel. Proposed access road including passing bays, wheel wash and welfare facilities. Construction of noise attenuation bund. (Renewal of H/2014/0019/F)	<b>Location:</b> Rear Of No 5 Brackaghlistlea Road Desertmartin
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mea Ltd 3 Grange Road Toome BT41 3QE	<b>Agent Name and Address:</b> Mea Ltd 3 Grange Road Toome BT41 3QE
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory Consultee	Environmental Health Mid Ulster Council	Substantive: TBC
Statutory Consultee	Historic Environment Division (HED)	
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-21-1739 F Rear Of No 5 Brackaghlistea Road Desertmartin.doc
Non Statutory Consultee	Shared Environmental Services	LA09-2021-1739-F_HRA_Stage_1_12102022.pdf
Statutory Consultee	Geological Survey NI (DfE)	E3135 - Sand and gravel extraction at 5 Brackaghlistea Road, Desertmartin.pdf
Statutory Consultee	NIEA	LA09-2021-1739-F.PDF
Non Statutory Consultee	Environmental Health Mid Ulster Council	
Statutory Consultee	NIEA	
Statutory Consultee	Historic Environment Division (HED)	



		NIEA	
<b>Representations:</b>			
Letters of Support		0	
Letters of Objection		0	
Letters Non Committal		0	
Number of Support Petitions and signatures			
Number of Petitions of Objection and signatures			
<b>Summary of Issues</b>			
<b>Characteristics of the Site and Area</b>			
<p>The site extends to 3.5ha and is located 2.7km south-west of Tobermore, 3.0km east of Draperstown and 4.0km north west of Desertmartin. The site is access directly off the Brackaghlistlea Road with the access point being located 350m south of the junction of the B40 Draperstown Road with the Brackaghlistlea Road. The access point is located at the existing entrance to no's 3A and 5 which are two modern single storey dwellings set against the backdrop of an existing working farmyard complete with farm buildings. The topography of the land is undulating and generally rises from south towards the north. The field through which the access laneway extends, falls gently from the west towards the east. There is a 1.5m high hedge along the roadside boundary with an open drain on the inside. The site is contained mainly by 2.0m high thorn hedges with post and wire fencing.</p> <p>The field along the north-eastern boundary and which extends along the boundaries of no's. 2 and 3A has also been quarried in recent times. Along the southern boundary and immediately adjacent to the site is a large working farmyard with a number of farm buildings as well as a modest single storey dwelling.</p>			
<b>Description of Proposal</b>			
<p>The proposal is for proposed sand and gravel extraction using dry screeners, loading shovel. Proposed access road in passing bays, wheel wash and welfare facilities.</p>			
<b>Planning Assessment of Policy and Other Material Considerations</b>			
<b><u>Policy Consideration</u></b>			
<p>Planning Assessment of Policy and other Material Considerations</p> <p>This is a current approval on the site under H/2014/0019/F. This proposal is a renewal of the 2014 application, however the description now includes construction of noise attenuation bund.</p> <p>The relevant policies for this type of development is POLICY MINERALS 1 - 8 of PSRNI, PPS2 and PPS3 and Magheraflet Area Plan 2015.</p>			

Magherafelt the immediate locality around Brackaghlistea Road is one of main mineral sources of sand and gravel in this part of the Mid Ulster District, with deposits also extending towards Tobermore.

#### POLICY MIN 1 - Env Protection

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The site is comprised of semi-improved grassland enclosed by species-poor hawthorn hedgerows and is adjacent to two working farm complexes. The proposed scheme of work will be confined to the semi-improved grassland. There will no significant hydrological impacts. In relation to the Mining Waste Management Plan (MWMP) NIEA: WMU have considered this acceptable.

NIEA: Waste Management Unit have considered the proposal in terms of the potential to impact on the aquatic Environment and are content with the proposal without conditions. NIEA's comments are based on consideration of:

- o letter from McErlean Associates to Planning department at Mid Ulster Council dated 28 March 2016
- o copy of email from Drinking Water Inspectorate dated 10 February 2016
- o drawing C-05, revision P-02, Brackaghlistea Sand Pit, Proposed sand pit cross sections, received at planning office 12 April 2016
- o McErlean Associates: boreholes logs, received by planning office 12 April 2016

The agent provided an up to date biodiversity check list, taking into account any changes since the previous approval.

Natural Environment Division has considered the impact of the proposal on the site and has also considered the badger survey. On the basis of the badger survey report, NED have confirmed that the proposal will not impact on badgers. NED have provided relevant informatives.

Shared Env Services also had no objections.

#### POLICY MIN 2 - VISUAL IMPLICATIONS

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The landscape sensitivity in this area is considered high to medium. The Sperrins AONB is approx 1km to the south, although there will be limited visibility of the site from higher ground the visual impact will be minor.

Quarries by their nature can alter landscapes dramatically, however assessment is required on an overall basis, from establishment to final restoration.

The establishment period can be the most disruptive but will typically only last 6 months. On completion of this phase, the quarry will settle into its main operational period, involving stripping and extraction. In terms of the landscape character, whilst screening would minimise potential negative impact to the wider character area, the existing hedgerows are to be retained. These hedgerows could be let grow to a mature height which would also provide additional screening. However the intention is to reinstate the lands to agricultural grazing pasture. Therefore with the exception of the extraction

disruption the long term impacts on the land will be minimal.

#### POLICY MIN 3 - AREAS OF CONSTRAINT

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The site is not located within any AONB or ASSI and so does not afford any special protection. Sperrins AONB is approx 1km to the south

#### MIN 4- VALUABLE MINERALS

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This application does not does include the exploiting of minerals limited in occurrence or with valuable property.

#### POLICY MIN 5 - MINERAL RESERVES

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Not applicable, as this proposal would not prejudice future exploitation of valuable mineral reserves, which would be considered to be of particular value to the economy.

#### POLICY MIN 6 - SAFETY AND AMENITY

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Particular regard should be had to the safety and amenity of occupants of developments in close proximity to working minerals. It is proposed that the extraction and subsequent restoration will be undertaken via machine driven plant/vehicles - no blasting is proposed, which reduces the potential for impact of noise and disturbance for surrounding properties. A landscaped bund is proposed along the south eastern boundary which will act as a noise barrier.

#### NOISE AND DISTURBANCE

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In the absence of specific Noise Standard Guidance the 'Technical Guidance to the National Planning Policy Framework - March 2012' is used for Minerals policy. In relation to Noise standards, subject to a maximum of 55dB, mineral planning authorities should aim to establish a noise limit at the noise-sensitive property that does exceed the background level by more than 10dB. it is recognised, however, that in many circumstances it will be difficult not to exceed the background level by more than 10dB without imposing unreasonable burdens on the mineral operator.

Env Health were consulted with the noise report associated with H/2014/0019/F and asked to ensure that no new receptors have been located closer to those identified in the previous noise report. The agent forwarded additional information in relation to any closer noise receptors/permissions around site since the last approval, these consisted of single dwellings and garages and extensions. Following inspection of this information no development has occurred inside the scope of the noise receptors in the previous noise report which was accepted by Env Health in the 2014 application.

Environmental Health, they have advised that the proposal is acceptable subject to recommended conditions relating to hours of operation and maximum noise levels.

#### POLICY MIN 7 - TRAFFIC

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Transport NI have advised that following submission of amendments, the access arrangements are acceptable subject to conditions.

#### POLICY MIN 8 - RESTORATION

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The total extraction area is 3.49ha. As a result of the noise assessment, phase 1 of the proposed quarry extends to approximately 1.4ha and will commence at the northern boundary and progress in a southerly direction. The over burden will be stripped and placed in at the southern end of the extraction. Phase 2 covers approximately 1.2ha with the excess overburden and soils being placed in the southern area of the site which will form the noise bund towards the southern part of the site. The final phase 3 covers approximately 0.8ha and will follow in a similar manner to the preceeding phases.

The site will be restored as the quarry design development phases take place. The proposal is for the land on the quarry floor to be restored to grassland and agricultural use. The boundary hedge are to be maintained and can be supplemented as required with new hedging.

GSNI were consulted on this application as they became statutory consultees for every quarry application in 2015, so therefore had not been previously consulted. They are content with the proposal and have no objections.

#### Recommendation

Approval is recommended following a review of all the necessary consultation responses and assessment against the relevant policy.

#### **Summary of Recommendation:**

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2

Prior to the development hereby approved becoming operational, a hawthorn or native species hedge shall be planted in a double staggered row 200mm apart, at 450 mm

spacing, 500 mm to the rear of the sight splays along the front boundary of the site.

Reason: To ensure the amenity afforded by existing hedges is maintained.

#### Condition 3

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

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

#### Condition 4

The existing natural screenings along the northern, southern, eastern and western boundaries of this site, shall be retained, augmented where necessary and let grow to a mature height unless necessary to prevent danger to the public in which case a full explanation shall be given to Mid Ulster District Council in writing, prior to the commencement of any works.

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

#### Condition 5

The development hereby permitted shall not be commenced until the vehicular access, including sight splays of 4.5m x 60m in both directions, has been constructed in accordance with Drawing No. 04/2 bearing the date stamp 10th August 2016.

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

#### Condition 6

The area within the visibility splays and 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.

#### Condition 7

The access gradients shall not exceed 4% (1 in 25) over the first 10m outside the road boundary. Where the vehicular access crosses a 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.

Condition 8

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

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

Condition 9

The width of the vehicular access shall be no less than 6m for the first 20m.

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

Condition 10

The development hereby approved shall not be commenced until the road widening and lay-by indicated on Drawing No. 04/2 bearing the date stamp 10th August 2016 has been fully completed and validated by Transport NI in accordance with the approved plans.

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

Condition 11

Before mineral extraction commences the works entrance, weighbridge area and wheel wash area, as indicated on the approved plan shall be hard surfaced with concrete or asphalt.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

Condition 12

Before mineral extraction commences, the first 20 metres of the access road measured from the nearest edge of the carriageway, shall be hard surfaced with concrete or asphalt.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

Condition 13

The development hereby permitted shall not become operational until effective vehicle wheel washing facilities have been installed and brought into operation and should remain in operation for the lifetime of the development approved.

Reason: To prevent the carry-over of mud or debris onto the public road in the interests of road safety and convenience.

Condition14

All vehicles operating within the development site shall be fitted with white noise (full spectrum) reversing alarms.

Reason: In the interests of residential amenity.

Condition15

Prior to 07:30 hours and after 18:00 hours Monday to Friday and prior to 08:00 hours and after 13:00 hours Saturday, the premises shall not remain open for business, deliveries by commercial vehicles shall not be made to and from the site and the processing plant and equipment shall not be in operation.

Reason: In the interests of residential amenity.

Condition16

Noise from the permitted extraction and restoration of the quarry shall not exceed those as stated within 'Table 1: Predicted 1 hour noise levels (LAeq,1hour)' of submitted letter dated 16th February 2015 (copy enclosed at Annex 1), at all dwellings referenced within the table.

Reason: In the interests of residential amenity.

Condition17

An increased noise limit of 70 dB LAeq,1hour not exceeding eight weeks in any calendar year is permitted at all dwellings which lawfully exist or have planning permission for construction at the date of this consent for temporary operations to facilitate essential site preparation, restoration work and construction of baffle mounds where it is clear that this will bring longer-term environmental benefits to the site or its environs.

Reason: In the interests of residential amenity.

Condition18

No site works of any nature or development shall take place until a programme of archaeological work has been implemented, in accordance with a written scheme and programme prepared by a qualified archaeologist, submitted by the applicant and approved by Mid Ulster district Council in association with NIEA: HED. The programme should provide for the identification and evaluation of the archaeological remains within the site, for mitigation of the impacts of the development through excavation recording or by preservation of remains and for the preparation of an archaeological report.

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

Condition19

A programme of post-excavation analysis, preparation of an archaeological report, dissemination of reports and preparation of the excavation archive shall be undertaken in accordance with the programme of archaeological work approved. These measures

shall be implemented and a final archaeological report shall be submitted to MUDC within 12 months of the completion of archaeological site works, or as otherwise agreed in writing MUDC.

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.

**Case Officer:** Emma McCullagh

**Date:** 11 January 2023



<b>ANNEX</b>	
<b>Date Valid</b>	3 December 2021
<b>Date First Advertised</b>	24 May 2022
<b>Date Last Advertised</b>	14 December 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 2 Brackaghlistlea Road, Draperstown, Londonderry, BT45 7JZ The Owner / Occupier 5 Brackaghlistlea Road, Draperstown, Londonderry, BT45 7JZ The Owner / Occupier 1 Brackaghlistlea Road, Draperstown, Londonderry, BT45 7JZ The Owner / Occupier 7 Brackaghlistlea Road Draperstown Londonderry BT45 7JZ The Owner / Occupier 3A Brackaghlistlea Road, Draperstown, Londonderry, BT45 7JZ	
<b>Date of Last Neighbour Notification</b>	26 January 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  Environmental Health Mid Ulster Council-Substantive: TBC Historic Environment Division (HED)- Environmental Health Mid Ulster Council-LA09-21-1739 F Rear Of No 5 Brackaghlistlea Road Desertmartin.doc Shared Environmental Services-LA09-2021-1739-F_HRA_Stage_1_12102022.pdf Geological Survey NI (DfE)-E3135 - Sand and gravel extraction at 5 Brackaghlistlea Road, Desertmartin.pdf NIEA-LA09-2021-1739-F.PDF Environmental Health Mid Ulster Council- NIEA- Historic Environment Division (HED)- NIEA-	

<b>Drawing Numbers and Title</b>
<b>Notification to Department (if relevant)</b>
Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2021/1779/O	<b>Target Date:</b> 9 February 2022
<b>Proposal:</b> Proposed domestic dwelling and garage on a farm	<b>Location:</b> 30M S.W. Of 3 Macknagh Lane Upperlands
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mrs Mary Rafferty 56 Carhill Road Garvagh	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  To Committee - Refusal - Contrary to CTY 1, 10 and 13 of PPS 2 and PPS 15.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Coleraine	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: PR

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1, 10 and 13 of PPS 2 and PPS 15.

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

The application site is located approximately 1.16km west of the development limits of Upperlands from such it is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as 30m SW of 3 Macknagh Lane, Upperlands, in which the red line covers a portion of a much larger agricultural field that lies along the roadside. I note that the whole agricultural field has an undulating landform and it is bounded by a mix of mature hedging/trees and post and wire fencing on all boundaries. I note that within the immediate vicinity there is a number of residential dwellings but the wider setting is characterised by agricultural land uses.

### **Representations**

Seven neighbour notifications were sent out however no representations were received.

## **Description of Proposal**

This is an outline application for a proposed domestic dwelling and garage on a farm, the site is located 30M S.W. Of 3 Macknagh Lane, Upperlands.

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

### **Policy Consideration**

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 – General Principles

PPS 3 – Access, Movement and Parking

PPS 21 – Sustainable Development in the Countryside

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

CTY 1 – Development in the Countryside

CTY 10 – Dwellings on the Farm

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of

development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

(a) the farm business is currently active and has been established for at least 6 years;  
(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. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the farm business was allocated in 2009. Went on to say that the business has not claimed in each of the last 6 years. Went on to confirm that the proposed site is located on land associated with another farm business. Clarification was sought from the agent over the activity and the association with another farm business. After numerous no additional details were provided, in that I am content that the applicant has demonstrated that there is an active business.

With respect to (b), upon review of the farm business and subsequent farm maps I am content that it does not appear that any farm approvals have been attained on it nor any other development opportunities sold off in the last 10 years.

With respect to (c), I first note that the registered address of the farm business is located outside the district of MUDC and lies outside the development limits of Garvagh. Given the separation distance the site cannot cluster with this dwelling. I note that within the location plan the agent has included no.3 Macknagh Lane under the blue line to show it under the control of the applicant but also included this property to be neighbour notified. Given this discrepancy I requested confirmation as whether this the property is associated with the farm business or not. I note after requests no confirmation of the relationship was forthcoming, after a land registry check it confirmed that the applicant is not the owner of this property and there is no clear link between the applicant and the owner of the No.3. With this in mind, hold the view that the application has failed to visually link or cluster with an established group of buildings on the farm.

The policy states that where practicable to use an existing laneway for access, I note that the intention is to create a new access, given the roadside location this is practical. From such I hold the view that the application fails under CTY 10 of PPS 21.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I hold the view than an appropriately designed dwelling with a low ridge height will not appear as visually prominent in the landscape. I note that as much

of the existing landscaping should be retained and supplemented with additional landscaping, with such any dwelling would be able to successfully integrate. Given the landform and surrounding development I feel it necessary to restrict any ridge height to 6m. As noted, the application has failed to visually link/cluster with an established group of buildings on the farm, with this in mind the application has not fully complied under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As such I am content that an appropriately designed dwelling would not appear unduly prominent in the landscape. I am content that the proposed dwelling would be acceptable in terms of CTY 14 without an adverse impact on the rural character of 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 and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

A consultation was also sent to Rivers Agency, in their response state in terms of FLD1 - Development in Fluvial and coastal Flood Plains – The Strategic Flood Map (NI) indicates that the site lies on the periphery of the 1 in 100 year fluvial flood plain. DfI Rivers would advise that the proposed dwelling and garage are located on the elevated north-eastern portion of the site.

FLD2 - Protection of Flood Defence and Drainage Infrastructure – An undesignated watercourse flows along the south-west boundary of the site. Under 6.32 of the policy a 5m maintenance strip is required. DfI Rivers would recommend that the working strip is shown on a site layout drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. In addition by way of planning informatives, perspective purchasers whose property is affected by this designated watercourse should be made aware of DfI River's obligations to maintain the watercourse along with their obligations to maintain the undesignated watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

FLD3 - Development and Surface Water – The Flood Hazard Map (NI) indicates that the site lies within an area of predicted pluvial flooding. In accordance with revised PPS 15, Planning and Flood Risk, FLD 3, Development and Surface Water (Pluvial) Flood Risk

outside Flood Plains, a Drainage Assessment is required if an additional hard surfacing exceeding 1000m<sup>2</sup> is proposed. The applicant should refer to paragraph D17 and D18 of Revised PPS 15. In carrying out the drainage assessment the applicant should acquire from the relevant

authority evidence that the proposed storm water run-off from the site can be safely discharged. If the proposal is to discharge into a watercourse then an application should be made to the local DfI Rivers office for consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973. If it is proposed to discharge storm water into an NI Water system then a Pre-Development Enquiry should be made and if a simple solution cannot be identified then a Network Capacity Check should be carried out. Correspondence with both authorities should be included in the drainage assessment regardless of outcome. If a Drainage Assessment is not required by the policy the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere. FLD 4 and 5 is not applicable.

I note that I requested an indicative block plan to confirm the siting, maintenance strip and area of hard surfacing. Like to the information above this was never submitted, I hold the view that I cannot recommend as it has not been demonstrated to satisfy PPS 15 respectively.

I have no ecological or residential amenity concerns.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to 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 is currently active (and has been established for at least six years).

#### **Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.



Reason 4

The proposal is contrary to the policies contained with Planning Policy Statement 15, Planning and Flood Risk in that there is insufficient evidence provided to prevent flood risk.

**Signature(s):** Peter Henry

**Date:** 16 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	15 December 2021
<b>Date First Advertised</b>	11 January 2022
<b>Date Last Advertised</b>	11 January 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 5 Macknagh Lane, Upperlands, Maghera, Londonderry, BT46 5SL The Owner / Occupier 31 , Macknagh Lane, Maghera, Londonderry, BT46 5SL The Owner / Occupier 3 Macknagh Lane, Upperlands, Maghera, Londonderry, BT46 5SL The Owner / Occupier 3 Macknagh Road Upperlands Maghera Londonderry BT46 5SG The Owner / Occupier 31 Macknagh Road Upperlands Maghera Londonderry BT46 5SG The Owner / Occupier 109 Moneysharvan Road Maghera Londonderry BT46 5PT The Owner / Occupier 5 Macknagh Road Upperlands Maghera Londonderry BT46 5SG	
<b>Date of Last Neighbour Notification</b>	21 January 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Coleraine-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBCResponseType: PR	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.9
<b>Application ID:</b> LA09/2022/0131/F	<b>Target Date:</b> 28 March 2022
<b>Proposal:</b> Proposed storage/warehouse provision for the storage of metal components	<b>Location:</b> 111 Ballynakilly Road Coalisland
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> James Mackle 22 Listamlet Road Moy Dungannon	<b>Agent Name and Address:</b> MC Keown And Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	Environmental Health Mid Ulster Council	Substantive: TBC
Statutory Consultee	DFI Roads - Enniskillen Office	09-11-2022.docx

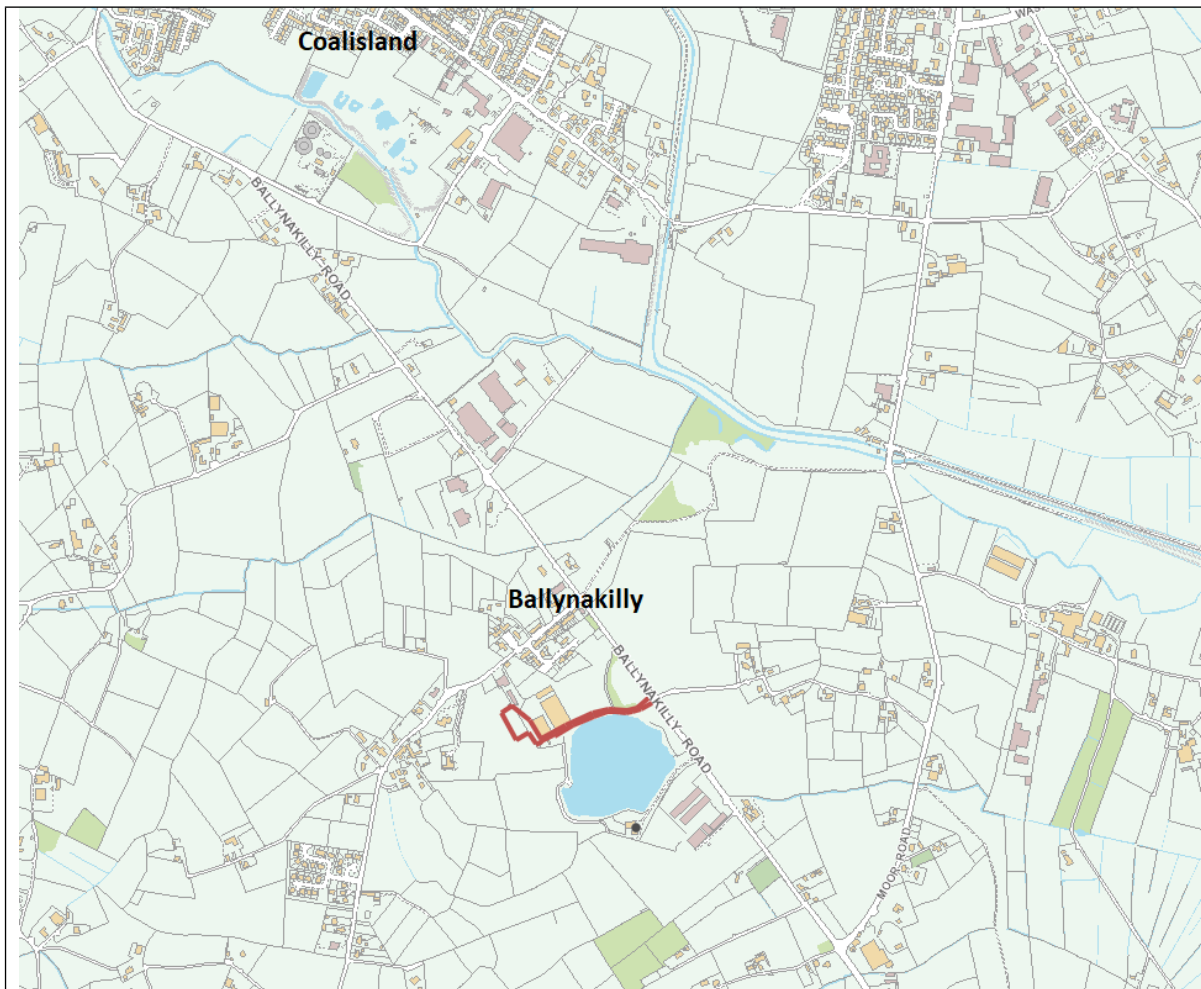
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	3
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies within the settlement limit for Ballynakilly as depicted by the DSTAP 2010 and has a mixed planning history with the most recent permissions on the site including; replacement of a fire damaged building, storage sheds, anaerobic digester, light industrial buildings, hard standing area. The red line of this site includes a small area to the rear of an existing engineering yard to the south of Ballynakilly.



The site is accessed via an existing access lane way off the Ballynakilly road and runs along the north side of the lake, and to the south of the existing engineering buildings to the rear portion of the site to a small rectangular area bounded to the south and west by thick hedging. Approximately 90 metres north east of the application site is 'Cranebrook' a housing development of 31 dwellings which has a recently developed a new childrens playground that is closer to the application site than any of the houses.



The ground is overgrown and there various bits and pieces associated with the adjoining works stored on the north part of the site. The site is separated from the existing sheds to the East by a 1.5 metre high block wall and wire fence above.



The site may lie within the settlement limits of Ballynakilly however it is bounded to the north, west and south by agricultural fields.

## Description of Proposal

The proposal seeks full planning permission for a storage/warehouse building for the storage of metal components.

## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

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

1. Strategic Planning Policy Statement (SPPS).
2. Dungannon & South Tyrone Area Plan 2010.
3. Planning Policy Statement (PPS) 3 - Access, Movement and Parking.
4. Planning Policy Statement (PPS) 4 - Planning and Economic Development.
5. Planning Policy Statement (PPS) 21 - Sustainable Development in the Countryside.

Dungannon & South Tyrone Area Plan Planning identifies the site as being within the settlement limits for Ballynakilly, with the settlement boundary running along the southern edge. This relates to the area to the west of where the existing buildings stand on the site and is a mixed area of hardstanding, rubble and heaped top soil. Policies SETT1 and IND1 of the Plan indicate that development will normally be granted provided a number of criteria set out in SETT1 are met.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland - Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 3, PPS 4 and PPS 21 have been retained under transitional arrangements. PPS 4 deals with Economic Development and the policy provision within PPS 3 deals with access, movement and parking. The Strategic Planning Policy Statement for Northern Ireland (SPPS) has a guiding principle that sustainable development should be permitted unless it causes demonstrable harm to areas of acknowledged importance, particular if it conflicts with an up to date area plan.

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

### **Representations**

Neighbour notification and Press advertisement have been carried out in line with the Council's statutory duty. At the time of writing, there were three third party objection from a concerned neighbour, firstly



two representations from Ballynakelly residents, as well as a third from a resident of number 23 Cranebrook Crescent.

The concerns raised included, concerns over the actual position of the new shed, their concerns were that new foundations were being laid to the front of the existing sheds which then would be bringing the development closer to his dwelling. Breach of previous permissions conditions such as noise and hours of use, and finally the actual need for the shed.

These concerns have been thoroughly discussed in group, however, the proposed shed is to be located to the very rear of the site at the furthest point from the objectors dwelling, approx. 160 metres. The concerns over foundations to the front have been raised with Enforcement division. The proposed shed is also located to the rear of the existing shed which will mean there shall be none or minimal increase visual impact, and finally the previous conditions placed on the existing sheds would appear to be adhered to in terms of the sound proofing required, the access and visibility splays. The council again will impose conditions on the hours of operation and restrict the use in order to protect the amenity of the neighbours surrounding the site.

Planning Policy Statement (PPS) 4 - Planning and Economic Development.

PED 1 Economic development in settlements states that; A development proposal for a Class B2 light industrial use will be permitted where it can be demonstrated that the scale, nature and design of the proposal are appropriate to the character of the settlement and it is not incompatible with any nearby residential use. The policy provision within PED 9 will also be pertinent in terms of assessing the proposal against the general criteria for economic development.



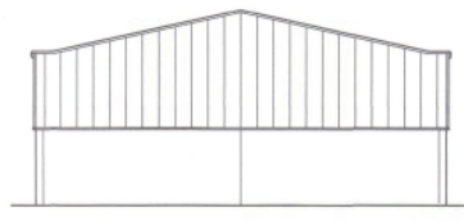
The proposed extension seeks a total new floor area of 216m<sup>2</sup> (18m x 16m) which would be considered minor when red alongside the existing 4 number much larger sheds on the site.



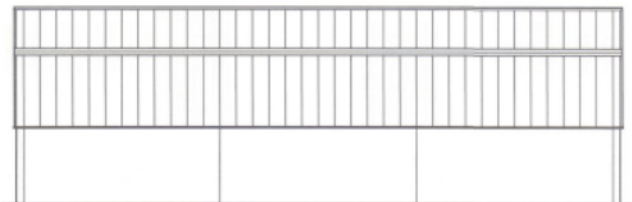
The proposal is positioned to the join the western end of the existing site which is some 275 metres from the roadside, due to the positioning at the read of the existing building the proposal, the distance from the roadside, the topography and the backdrop of the hedge line, the proposal will in my opinion have minimal impact on the area when viewed from the roadside. The extension, as proposed will respects the host building in terms of size, scale and the materials used on the finish. The site area is able to accommodate the proposed extension without the loss of any landscape or amenity features as the proposed shed lies within the existing curtilage has no impact on the surrounding boundaries. It will be situated in the open yard to store materials and product that are currently being stored outdoors. I am therefore content that the extension to the workshop is compliant with the provisions of Policy PED 1.



PROPOSED FRONT ELEVATION  
SCALE 1:100



PROPOSED SIDE ELEVATION  
SCALE 1:100



PROPOSED REAR ELEVATION  
SCALE 1:100



PROPOSED SIDE ELEVATION  
SCALE 1:100

#### PED 9

In addition to that above, Policy PED 9 of PPS 4, outlines that a proposal for economic development use, in addition to the other policy provision of PPS 4, will be required to meet a set of criteria (a-m):

In consideration of that criteria it is noted that the proposal relates to an extension of the existing Mac cladding engineering buildings on an existing site which has been used for a mix of industrial and storage purposes and has a historical industrial planning approval. The land surrounding the site is primarily agricultural in nature to the south and industrial to the north. I consider these land uses to be compatible.

In terms of the amenity of nearby residents, including the closest properties at numbers 18 Coash Road, the proposal is approx. 100 metres away, and is positioned behind the existing shed, therefore the impact of an additional storage shed will be minimal outside of the construction stage.

On the basis of that above I am content that the proposal satisfactorily meets with the policy criteria contained within PED 9 of PPS 4.

#### Access

As the application may involve an increase of use to the existing access provision it was deemed necessary to consult with DFI Roads. Roads responded and have highlighted that they have no objection to the proposal, subject to conditions. In relation to parking the applicant has highlighted that parking provision will remain as is, and in consideration of this I am satisfied that the application conforms to the Departments Parking Standards document and the policy consideration contained within PPS 3.

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.

#### Conclusion

The proposed development is considered to be in compliance with the policy objectives of the SPPS, PPS 4 and PPS 3, and accordingly approval is recommended.

#### Summary of Recommendation:

Approve is recommended

#### Approval Conditions

##### Condition 1

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

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

##### Condition 2

No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked in accordance with the approved drawing No 3A bearing date stamp 1 July 2022 to provide adequate facilities for parking, servicing and circulating within the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

##### Condition 3

The hereby approved warehouse/shed shall be restricted to storage of metal components only.

Reason; To protect the amenity of residents.

##### Condition 4

Within 4 weeks of a written request by the Mid Ulster Council, following a reasonable noise complaint the site operator shall, at his/her expense employ a suitably qualified and competent person, to assess the level of noise emissions from the site at the complainant's property following the procedures described in: BS 4142:2014 Methods for rating and assessing industrial and commercial sound. Details of the noise monitoring survey shall be submitted to the council for written approval prior to any monitoring

commencing.

Reason; To protect the amenity of residents.

Condition 5

There shall be no deliveries and/or external activity associated with the hereby approved outside the hours of 09:00 hours and 18:30 hours Monday to Friday and 09:00 hours to 13:00 hours on Saturdays. There shall be no site activity on Sunday.

Reason; To protect the amenity if residents.

**Signature(s):** Peter Hughes

**Date:** 24 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	31 January 2022
<b>Date First Advertised</b>	17 February 2022
<b>Date Last Advertised</b>	15 February 2022
<b>Details of Neighbour Notification (all addresses)</b>  The Owner / Occupier Unit 1, 20A , Coash Road, Dungannon, Tyrone, BT71 6JE The Owner / Occupier Unit 3, 20A , Coash Road, Dungannon, Tyrone, BT71 6JE The Owner / Occupier Unit 4, 20A , Coash Road, Dungannon, Tyrone, BT71 6JE The Owner / Occupier 111 Ballynakilly Road, Coalisland, Tyrone, BT71 6HE The Owner / Occupier Unit 2, 20A , Coash Road, Dungannon, Tyrone, BT71 6JE The Owner / Occupier Nursery, Coash Road, Dungannon, Tyrone, BT71 6JE The Owner / Occupier 20 Coash Road, Dungannon, Tyrone, BT71 6JE	
<b>Date of Last Neighbour Notification</b>	3 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR Environmental Health Mid Ulster Council-Substantive: TBC DFI Roads - Enniskillen Office-09-11-2022.docx	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Proposed Plans Plan Ref: 02  
Site Layout or Block Plan Plan Ref: 03

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5
<b>Application ID:</b> LA09/2022/0201/O	<b>Target Date:</b> 13 April 2022
<b>Proposal:</b> Proposed single storey dwelling	<b>Location:</b> Adjacent To 64 Reaskmore Road Reaskmore Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Kieran MC Gartland 66 Reaskmore Road Reaskmore Dungannon	<b>Agent Name and Address:</b> Peter McCaughey 31 Gortnasaor Dungannon BT71 6DA
<b>Executive Summary:</b>	



**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	Health & Safety Executive For NI	Substantive: TBC

**Representations:**

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

**Summary of Issues**

No representations received.

**Characteristics of the Site and Area**

The red line of the site is a roadside site, located just north of 64 Reaskmore Road. Lands to the North, East and South are hatched blue, indicating ownership, including

No.66 Reaskmore Road and the associated outbuildings. The lands are generally flat across the site and the roadside boundary is bounded by existing low level hedging and the boundary to the south is made up with post and wire fencing. The remainder of the boundaries are currently undefined. The surrounding area is rural in nature, although there is increasing development along the roadside with single dwellings and associated outbuildings.

### **Description of Proposal**

Outline planning permission is sought for a proposed single storey dwelling.

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

#### **Policy Consideration**

##### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified under this application including: 64 Reaskmore Road. At the time of writing, no third party representations have been received.

##### **Planning History**

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

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

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

The Dungannon and South Tyrone Area Plan 2010 identifies the site as being in the rural countryside with no other zonings or designations within the plan.

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

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be

sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside, including the development of a small gap site within an otherwise substantial and continuously built-up frontage in accordance with CTY 8 and for a dwelling on a farm with CTY 10. The agent has not indicated which policy they wanted the proposal assessed against, however it was considered that CTY 8 and CTY 10 were the only two which would be likely at this site and as such, both policies were considered at our group discussions.

CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. 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. For the purpose of the 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.

The concern with this proposal is that it would add to a ribbon of development. There is a line of three dwellings to the south of the site, however to the north there is a small gap and beyond that there is a single dwelling which is set back quite a substantial distance from the roadside, and it is not considered that this dwelling presents a frontage to the road. Therefore, taking into consideration what is on the ground at present, I am not satisfied that there is a line of three or more buildings along this road frontage and therefore the proposal does not meet this policy requirement. I am content that the gap outlined in red would be sufficient to accommodate no more than two dwellings, given the current plot sizes located along this road if the remainder of the infill policy were to be met.

In relation to CTY 10, the agent was asked if there was a possible farming case we could explore. He provided supporting information noting that the applicant owns 10 acres of adjoining land. He adds that the applicant cuts and trims all boundary hedges, cleans out and clears all drains and cuts the grass at least twice a year for silage etc. Letters from three neighbours were provided as supporting information which state that the applicant helps out with the above-mentioned works. The applicant does not have any invoices or receipts to further validate the above claims, which is generally what we would require and ask for to confirm that the business is active and established if they do not have a Business ID number.

Policies CTY 13 and CTY 14 are also applicable in relation to the proposal. Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. There are concerns that the proposal would be contrary to some of the policy criterion held within these policies in that it would add to a ribbon of development and in the case that the proposal is assessed against CTY 10, it would not be sited to

visually link with existing farm buildings. If approval were to be granted, I would note that single storey as noted in the description would be suitable for this site, given it is the predominant house type along this section of Reaskmore Road.

Health and Safety Executive were consulted on the proposal also, given it is within the vicinity of a major hazard pipeline. They have noted that they have liaised with Mutual Energy who own and operate the pipeline in the area and they have advised that the proposed development does not encroach onto their pipeline thus they would not advise against. However, they do add that the Council should consult with Mutual Energy directly. They added that the proposal is outside of the easement area of their pipeline and causes no change to population density. Therefore, they would have no objections. They note that they would wish to engage with the developer prior to construction to get a more complete picture, and to ensure that installation of utilities to the property pose no risk to the pipeline.

The applicant has noted that they intend to create a new access onto Reaskmore Road. DfI Roads were consulted and raised no concerns with the proposal subject to condition.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Reaskmore Road.

**Reason 2**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that: the buildings would, if permitted create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Reason 3**

The proposal is contrary to Policies CTY10 and CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside as not enough evidence has been provided to demonstrate that the farm business is active and established and the proposed development is not sited to visually link with existing buildings on the farm.

**Case Officer:** Sarah Duggan

**Date:** 19 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	16 February 2022
<b>Date First Advertised</b>	3 March 2022
<b>Date Last Advertised</b>	1 March 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 64 Reaskmore Road Dungannon Tyrone BT70 1QF	
<b>Date of Last Neighbour Notification</b>	4 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR Health & Safety Executive For NI-Substantive: TBC	
<b>Drawing Numbers and Title</b>  Site Location Plan   Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.11
<b>Application ID:</b> LA09/2022/0249/O	<b>Target Date:</b> 19 April 2022
<b>Proposal:</b> Erection of a dwelling & domestic garage on a farm	<b>Location:</b> Land Adjacent To & Immediately South Of 14 Tychaney Road Ballygawley
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Jenna Robinson 223D Newtownsaville Road Eskra Omagh	<b>Agent Name and Address:</b> Bernard Donnelly 30 Lismore Road Ballygawley BT70 2ND
<b>Executive Summary:</b>	

**Case Officer Report****Site Location Plan**

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**Consultations:**

Consultation Type	Consultee	Response
	NIEA	Substantive: TBCResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR
	DFI Roads - Enniskillen Office	Substantive: TBCResponseType: PR
	DAERA - Omagh	Substantive: TBCResponseType: FR

**Representations:**

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

**Summary of Issues**

The proposal is considered to be contrary to CTY 10 and CTY 13 of PPS 21 - Sustainable Development in the Countryside.



There were no representations received in relation to the proposal.

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

The site is located at lands adjacent to immediately south of 14 Tychaney Road, Ballygawley. The red line of the site includes a roadside portion of a larger agricultural field. Lands to the East and South of the site are outlined in blue, indicating ownership. The blue lands include farm buildings to the south and a dwelling with outbuildings on the opposite side of the road. The lands rise quite steeply from the roadside towards the east of the site. The surrounding area is rural in nature, with scattered dwellings and their associated outbuildings.

### **Description of Proposal**

Outline planning permission is sought for the erection of a dwelling and domestic garage on a farm.

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

#### **Policy Consideration**

##### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 4 and 44 Turnabarson Road. At the time of writing, no third party representations were received.

##### **Planning History**

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

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

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

The Dungannon and South Tyrone Area Plan 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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

Policy CTY 1 of PPS 21 establishes that planning permission will be granted for a dwelling on a farm where it is in accordance with Policy CTY 10. This establishes 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. This provision will only apply from 25 November 2008

(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:

- o demonstrable health and safety reasons; or
- o verifiable plans to expand the farm business at the existing building groups(s)

With respect to (a) the applicant has provided details surrounding their farm business ID and associated mapping. DAERA have noted in their response that the applicants Business ID has been in existence from 1991, but there have been no single farm payment claims made on the lands over the past 6 years. The agent provided supporting information, by way of receipts and invoices which date from and across the years 2015-2021 and relate to the sale of round bales, hedge cutting and the purchase of a range of agricultural goods. From this information, I am content that the farm holding has been active and established for at least 6 years and that the land itself has been maintained in good agricultural and environmental condition.

With respect 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 this application. Checks were carried out using the UNIFORM system and no historical applications have been found.

With respect to (c), the new dwelling is not considered to be visually linked with existing farm buildings and therefore we feel the proposal fails the policy on this criterion. The proposed site is approx. 60m at the closest point to the red line of the site and the farm complex to the South of the application site. The agent was asked for justification away from the farm buildings and he responded stating the proposed site avoids the High Voltage Electric line running through the site and the access position would be away from the bend in the Road. They added that the siting would protect the amenity of No.17 Tychanny Road, which is noted as the Farm Business ID owners address. It is our view that a dwelling could be sited and designed closer to the farm buildings without impacting on No.17's amenity. When discussed at our internal group meeting, we felt that the justification did not warrant an exception within the policy.

An area to the northern portion of the site indicates an area subject to surface flooding. Rivers agency were consulted on the proposal and noted that a Drainage Assessment is not required by the policy but the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood

risk to the proposed development and elsewhere. There was no further information sought from the applicant/agent to determine what impact this could have on potential development within the red line, given we weren't content with the principle of development at this site, however it may be something to be mindful of if approval were to be forthcoming. If the proposal is set outside of this flood zone, it would essentially be a cut out of an open field, would lack enclosure from existing boundaries and may appear prominent if siting on higher ground.

To conclude, there is appreciable distance between the proposed site and farm buildings and no justifiable reason has been provided by the agent to warrant siting away from the farm buildings. There appears to be alternative sites which would meet with the policy contained within CTY 10 within blue lands. There are no verifiable plans that the farm business is to be expanded.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. However, it is considered that the proposal fails on criterion (g) of CTY 13 where in the case of a proposed dwelling on a farm, it is not visually linked or sited to cluster with an established group of buildings on a farm. There is some degree of hedging along the northern and roadside boundary but it is low lying and therefore wouldn't provide a suitable degree of enclosure or integration for a dwelling at this site.

The applicant has noted that they intend to create a new access onto Tycanny Road. DfI Roads were consulted and have noted no issues with the proposed access arrangement subject to condition.

#### **Summary of Recommendation:**

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 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 with an established group of buildings on the farm. No health and safety reasons exist to justify an alternative site not visually linked with an established group of buildings on the farm and no verifiable plans exist to expand the farm business at the existing building group(s) to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

##### **Reason 2**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed building would be a prominent feature in the landscape and the proposed building would fail to blend with the landform,

existing trees, buildings, slopes and other natural features which provide a backdrop. In the case of a proposed dwelling on a farm 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.

**Case Officer:** Sarah Duggan

**Date:** 19 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 February 2022
<b>Date First Advertised</b>	10 March 2022
<b>Date Last Advertised</b>	8 March 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 14 Tycanny Road Garvaghy Dungannon Tyrone BT70 2EB The Owner / Occupier 17 Tycanny Road Garvaghy Dungannon Tyrone BT70 2EB	
<b>Date of Last Neighbour Notification</b>	21 March 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  NIEA-Substantive: TBCResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR DFI Roads - Enniskillen Office-Substantive: TBCResponseType: PR DAERA - Omagh-Substantive: TBCResponseType: FR	
<b>Drawing Numbers and Title</b>  Site Location Plan   Plan Ref: 01	
<b>Notification to Department (if relevant)</b>  Not Applicable	





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.12
<b>Application ID:</b> LA09/2022/0418/F	<b>Target Date:</b> 24 May 2022
<b>Proposal:</b> Proposed 2 pair of semi detached houses (4 houses) to replace detached house granted under M/2013/0071/F	<b>Location:</b> 1 Castle Glen Avenue Ranfurly Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> M & L Property Developments Ltd 34 Culrevog Road Dungannon	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	NI Water - Multiple Units West	Substantive: TBCResponseType: FR
Statutory Consultee	DFI Roads - Enniskillen Office	27-07-2022 Conditions.docx

### Representations:

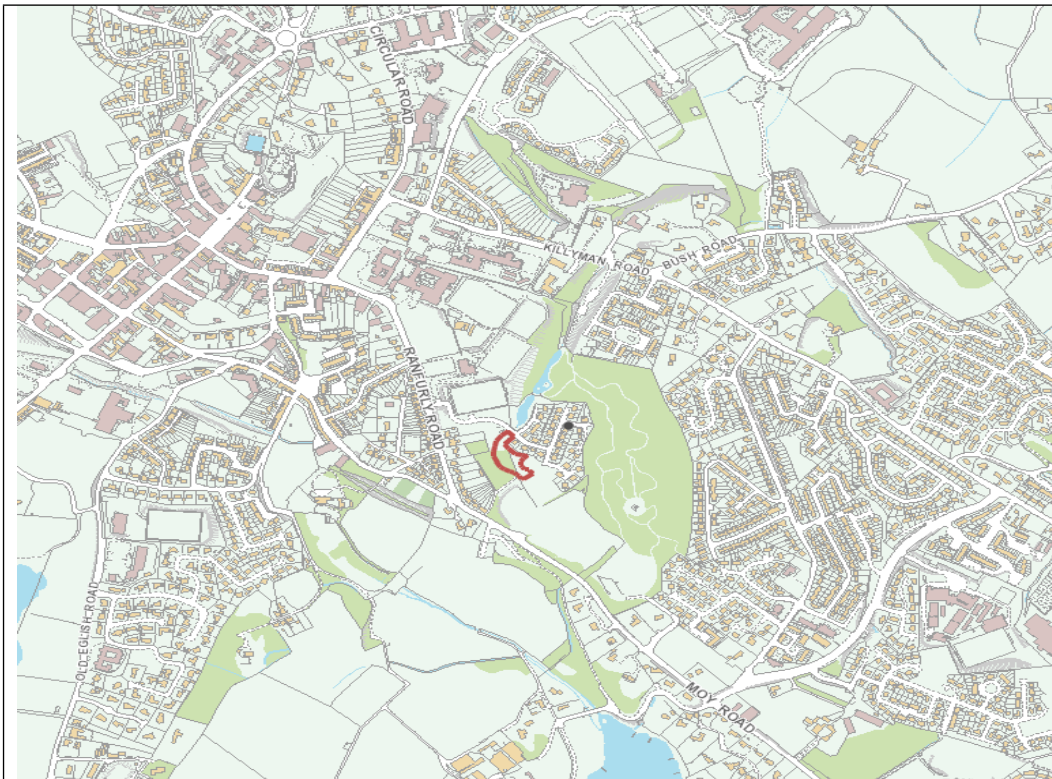
Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies within the settlement limits of Dungannon on land zoned for housing (DH16) and outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010.





The site is an irregular shaped plot located adjoining the south of the newly built Castle Glen Avenue Development. The site is accessed off the main Ranfurly Road and runs just along the south boundary of the Royal School grounds. The larger site comprises a large development of semi detached and detached dwellings all of the same design and appearance.



The land slopes slightly from the North to the South, with a strong degree of vegetation cover along the

west boundary provided by mature trees. The designated area of open space is directly adjacent to and east of the site with the access and parking taken along the south western boundary.

## Description of Proposal

The proposal seeks full planning permission for 2 pair of semi-detached houses (4 houses) to replace detached house granted under M/2013/0071/F.



## Planning Assessment of Policy and Other Material Considerations

### Policy Consideration

#### History

M/2013/0071/F - Erection of 76 no. residential units comprising 14 no. detached, 40 no. semi-detached, 4 no. apartments and 18 no. townhouses, garages, associated landscaping, site and access works.

LA09/2019/0196/NMC - Amendment of rear/side elevation house types F and G

LA09/2019/1012/F - Retention of development site as constructed including modification of site/house

levels and variation to landscape proposals

LA09/2019/1483/F - Retention of site levels, proposed dwelling and garage and variation of landscape proposals

LA09/2021/0018/F - Part amendment of housing development site layout approved under M/2013/0071/F 15 units in total

### **Assessment**

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:

- o Regional Development Strategy 2030
- o Strategic Planning Policy Statement for Northern Ireland
- o Dungannon and South Tyrone Area Plan 2010
- o PPS 3 Access, Movement and Parking
- o PPS 7 Quality Residential Environments
- o PPS 7 (Addendum) - Safe Guarding the Character of Established Residential 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 and Independent Examination. In light of this, the draft Plan Strategy does not yet carry 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, there has been two objections received, from concerned neighbours located immediately north of the site.

The objections main issues included;

- set a precedent
- Additional street lighting
- sewage system
- loss of trees
- loss of privacy
- loss of house value
- loss of view
- loss of sunlight
- loss of green area

### **Assessment of representations**

-With regards to the first point surrounding setting a precedent, it must be noted that the site lies within the settlement limits for Dungannon where there is a presumption in favour of development. In addition the proposal includes 4 dwellings, replacing one on the site but it must be noted that two units have been dropped from the overall approved scheme, therefore there is only one additional unit. The back to back distances and private amenity spaces are all sufficient.

-The proposed drawings show no plans for additional street lighting, however should any be proposed they would be to the south of the site and would therefore have minimal impact on the existing dwellings.

-The proposal does not involve the felling of any trees.

-Back to back distances are 20 metres minimum and the boundary is defined by a 20 metre closed board fence. Therefore there will not be an unacceptable loss of privacy

-Devaluation of property and loss of view are non material considerations

-The red line of the site does not include any additional open space, therefore there will be no further loss of green area.

- Finally, with regards to the loss of sunlight, as the sites lie to the South West of the existing dwellings the Sun will pass over and cast a shadow in that direction in the evening time, however, as the dwellings are 20 metre back and 11 metres minimum distance from dwelling to property boundary there will be no significant loss of sunlight.

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

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

The Dungannon and South Tyrone Area Plan 2010 is the statutory local development plan for the application site. The application site is located within the settlement limits of Dunagannon on land zoned for housing – Phase 1, DH16.

DH 16 – lands north of Oaklin House Hotel (Finnerys Field)

This was a 3.1 ha site located south of Windmill Wood benefitting from treed boundaries, the key site requirements include

-Access from the Ranfurly road

- foul sewer pumping required

- survey of vegetation required

-adequate separation between dwellings and trees

-pond to the west should be retained within overall layout

These factors have all been taken into account with the larger scheme for 76 dwellings and this proposal does not have any further detrimental effect. The scale, form, design, and use of materials are considered acceptable and are considered in more detail below.



This proposal seeks full planning permission for 2 sets of semi detached dwellings, 4 units in total. Drawing 04B date stamped 17<sup>th</sup> October 2022 provides details on the proposed siting, scale and access arrangements and drawing 5 date stamped 29<sup>th</sup> March 2022 details the design and dwelling layout. It must be noted that the scheme is to replace one larger dwelling on site and also that 2 units have been dropped from the overall larger scheme.

Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature should be assessed. The proposal has been considered against all criteria outlined under Policy QD1.

a) The proposal is for 4 dwelling units which would be in the form of 2 sets of semi-detached properties. It is my assessment that the proposed layout 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, landscaping and hard surfaced areas. The immediate surrounding context is characterised by residential development of a similar scale and design and the density of the proposal is considered an acceptable reflection of the surrounding built form. I consider the development will respect the surrounding character. The development is not dominated by hard surfacing with all dwellings having in-curtilage parking and private garden amenity space of ample proportions.



b) No protected archaeological or built heritage features identified have been identified within the site or in close proximity thus it is not considered that the proposal would have a significant impact on any local landscape features of built/archaeological interests.

c) Each dwelling has adequate private amenity space enclosed by fencing in excess of the 70m2

recommended in Creating Places. Drawing 4B provides details of proposed planting to the entrance, as well as a high quality railing and fencing, which will soften the developments visual impact and help create a quality residential development.

d) The proposal site is situated within the Dungannon settlement limits thus it is considered there is easy accessibility to local neighbourhood facilities. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area.

e) The proposal seeks to access onto the Ranfurly Road. It was noted on the date of the site inspection the presence of an existing footpath which runs along the front of the site. DfI Roads have been consulted and have no objection to the proposal subject to conditions. It is considered an acceptable movement pattern is provided for vehicular, pedestrian and cycle links with local facilities and amenities. Having considered the proposed access arrangements and given DfI Roads have offered no road safety objections, it is considered the proposal also complies with Policy AMP2 of PPS 3.

f) I consider that adequate provision has been made for the provision of in-curtilage and on street parking within the site as indicated on Drawing 4B with ample space for 2no in-curtilage parking spaces per dwelling unit.

g) The design and finish of the dwellings do not give me any cause for concern and are typical of built form design found in the surrounding area. The proposal includes two storey semi-detached dwellings finished with red brick with a natural slate roof. The material and form is reflective of the existing built form within the settlement and overall I consider the design and finishes to be appropriate.

h) This proposed use is residential and this is in keeping with the land uses in the immediate setting. Generally, residential developments do not generate any unacceptable noise, odours or emissions which would impact on residential amenity. There are residential dwellings located north and northeast of the site. In terms of overlooking, loss of light and overshadowing, it is considered there is adequate separation distance from neighbouring properties and I do not foresee any unacceptable adverse impact on neighbouring amenity as a result of this proposal.



- i) Each unit has private amenity space and private off street parking provided. I have no significant concerns in terms of crime or health and safety with respect the proposed design.

PPS 7 (Addendum) Safeguarding the Character of Established Residential Areas - I am satisfied that, in principal, this proposal complies with Policy LC 1, Protecting Local Character, Environmental Quality and Residential Amenity, in that the proposal will not result in a significantly higher residential density in this locality. In terms of keeping with the established character of the area, the proposal is residential in nature which is acceptable in the surrounding context. The surrounding area is predominantly residential and there are a mix of house designs and densities from detached dwellings on large plots to higher density development. I consider the proposal is in keeping with existing pattern of development and the design and scale would not have an impact on the overall character and environmental quality of this area. All proposed dwellings are in excess of the acceptable size as set out in Annex A of this policy.

#### Additional Considerations

NI Water were consulted and have advised Waste Water Treatment Facilities at Dungannon WwTW are currently at capacity and therefore unavailable to serve this proposal. However, the agent has detailed that this proposal will only involve the addition of one extra unit, as two units have been dropped from the overall arrangement, and one dwelling approved on the site is being replaced. To combat the extra unit the layout on drawing 4B shows that the first dwelling unit is to be served by its own foul water treatment plant. This therefore negates the need for any intensification on the WWTWs. I discussed this with the principal planner and it was agreed that it was not necessary to re consult NIW in this case.

**Summary of Recommendation:**

Approve is recommended

**Approval Conditions**

**Condition 1**

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

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

**Condition 2**

No other development hereby permitted shall be commenced until the vehicular access has been constructed in accordance with Drawing No 4B bearing the date stamp 17 OCT 2022.

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

**Condition 3**

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

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

**Condition 4**

Prior to occupation of the dwelling hereby approved, detailed as site number 1, the developer shall either:

- provide and commission a septic tank as shown on drawing 4B dated 17 OCT 2022, or
- provide written confirmation from NI Water of their agreement to allow the dwelling to connect into its mains sewage system.

REASON: to prevent pollution

**Condition 5**



All hard and soft landscape works shall be carried out in accordance with the approved details on drawing No.4B dated 17 OCT 2022 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.

**Signature(s):** Peter Hughes

**Date:** 8 November 2022

ANNEX	
<b>Date Valid</b>	29 March 2022
<b>Date First Advertised</b>	14 April 2022
<b>Date Last Advertised</b>	12 April 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 15 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 14 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 25 Castle Glen Avenue, Dungannon, Tyrone, BT71 6YF The Owner / Occupier 15 Castle Glen Avenue, Dungannon, Tyrone, BT71 6YF The Owner / Occupier 11 Castle Glen Avenue, Dungannon, Tyrone, BT71 6YF  The Owner / Occupier 5 Castle Glen Avenue, Dungannon, Tyrone, BT71 6YF The Owner / Occupier 3 Castle Glen Avenue, Dungannon, Tyrone, BT71 6YF The Owner / Occupier 1 Castle Glen Avenue, Dungannon, Tyrone, BT71 6YF The Owner / Occupier 16 Ranfurly Road Dungannon Tyrone BT71 6EF  The Owner / Occupier 25 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 28 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 38 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 37 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 36 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 35 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 34 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier 32 Ranfurly Road Dungannon Tyrone BT71 6EF The Owner / Occupier	

31 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

33 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

27 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

16A Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

24 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

23 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

22 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

21 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

20 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

19 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

18 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

17 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

29 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

30 Ranfurly Road Dungannon Tyrone BT71 6EF  
The Owner / Occupier

15 Oaklands, Dungannon, Tyrone,  
The Owner / Occupier

6 Oaklands, Dungannon, Tyrone,  
The Owner / Occupier

40 Ranfurly Road, Dungannon, Tyrone, BT71 6EF  
The Owner / Occupier

44 Ranfurly Road, Dungannon, Tyrone, BT71 6EF  
The Owner / Occupier

1 Castle Glen Ponds, Dungannon, Tyrone, BT71 6XX  
The Owner / Occupier

42 Ranfurly Road, Dungannon, Tyrone, BT71 6EF

**Date of Last Neighbour Notification**

27 April 2022

**Date of EIA Determination**

**ES Requested**

<events screen>

**Planning History****Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Substantive: TBC  
NI Water - Multiple Units West-Substantive: TBCResponseType: FR  
DFI Roads - Enniskillen Office-27-07-2022 Conditions.docx

**Drawing Numbers and Title**

Proposed Plans      Plan Ref: 05  
Site Layout or Block Plan   Plan Ref: 04  
Site Layout or Block Plan   Plan Ref: 03  
Site Layout or Block Plan   Plan Ref: 02  
Site Location Plan   Plan Ref: 01  
Site Layout or Block Plan   Plan Ref: 4B  
Site Layout or Block Plan   Plan Ref: 4A

**Notification to Department (if relevant)**

Not ApplicableNot Applicable

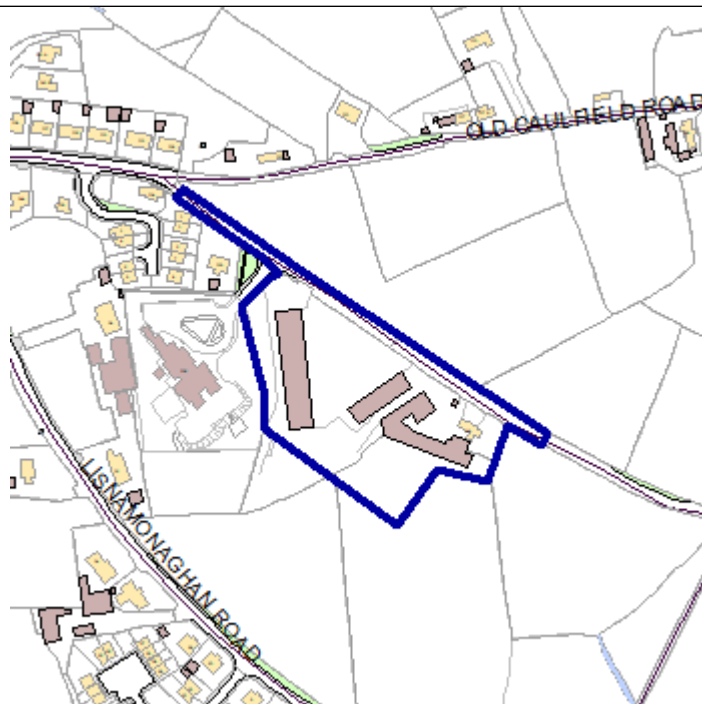


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.13
<b>Application ID:</b> LA09/2022/0440/F	<b>Target Date:</b> 30 May 2022
<b>Proposal:</b> Proposed residential development consisting of 30 no. dwellings made up of a range of 3 & 4 bed detached and semi-detached houses with associated access & parking, landscaping and public open space.	<b>Location:</b> 140 Old Caulfield Road Castlecaulfield Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Alskea Ltd 252 Hillhall Road Belfast BT27 5JQ	<b>Agent Name and Address:</b> No Agent
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	Environmental Health Mid Ulster Council	Substantive: TBC
	NI Water - Multiple Units West	Substantive: TBCResponseType: PR
Statutory Consultee	DFI Roads - Enniskillen Office	2022 0440 F Coversheet.docx
Statutory Consultee	Rivers Agency	496007-07 Final Planning Authority reply.pdf
Statutory Consultee	DFI Roads - Enniskillen Office	
Statutory Consultee	Environmental Health Mid Ulster Council	Planning Response 2 LA09- 22-0440.pdf

### Representations:

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

and signatures

## Summary of Issues

This proposal does not comply with the provisions of Policy CTY 15 in PPS 21.

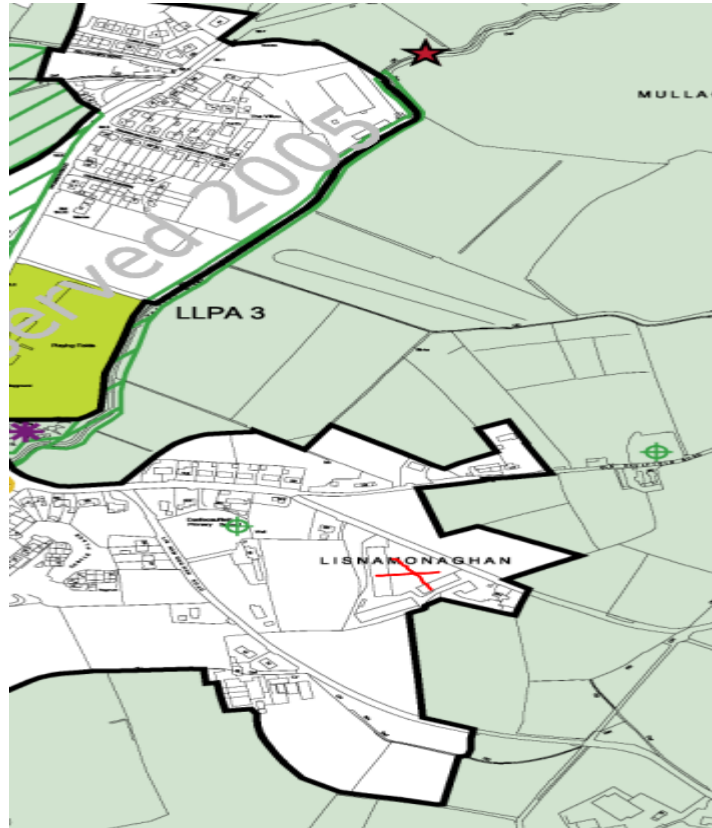
## Characteristics of the Site and Area

This application occupies an irregular shaped site which sits to the south of the Old Castlecaulfield Road. It is sited mostly within the development limits of the village of Castlecaulfield and is undefined in the Dungannon and South Tyrone Area Plan (DSTAP). Part of the site's eastern boundary also defines the settlement limit and a small portion of the site to the rear of the farm building which sits to the rear of the dwelling lies outside of the development limit. This eastern portion of this application site includes the two-storey dwelling at No 140 Old Castlecaulfield Road as well as a number of associated farm buildings to the west. At the time of site inspection, it appears that one of the outbuildings has been demolished and there are piles of infill which appears to have been transported to the site from elsewhere. The land is generally flat however it rises in a south easterly direction with the road as you travel away from the direction of the village.



A long agricultural type shed with an associated concreted yard area to the front and side sits almost parallel to the western boundary of the site which comprises mature hedging, separating the site from the Blessed Patrick O'Loughran Primary School to the

west. The roadside boundary at this western most part of the site is undefined with the concreted yard area to the front of the shed. As you travel along the roadside boundary of the site away from the village, this north eastern boundary varies from a post and wire fence, to a stone wall which forms the curtilage of No 140 Old Castlecaulfield Road. The eastern boundary of the site is well treed enclosing the curtilage of the dwelling. The remaining south western boundary to the rear of the site is defined on the ground by a post and wire fence, with views over onto the Lisnamonaghan Road.



### Planning History

There is no relevant planning history on this application site.

### **Description of Proposal**

This application seeks full planning permission for a residential development consisting of 30 no. dwellings made up of a range of 3 & 4 bed detached and semi-detached houses with associated access & parking, landscaping and public open space on lands at No 140 Old Caulfield Road, Castlecaulfield.

This residential development comprises 9 pairs of semi-detached dwellings and 12 detached dwellings of which 10 are along the main road. All the dwellings are two storey, with 16 of them - being 4-bedroom and the remaining 14 3-bedroom dwellings.





## Consultations and Representations

NI Water were consulted and have stated there is available capacity at the Castlecaulfield Wastewater Treatment Works (WwTW) for a maximum period of 18 months from the date of their consultation response which would be 11<sup>th</sup> November 2023. However, NI Water recommend this application be refused as the development may experience nuisance due to its proximity to the WwTW and they would require confirmation that Policy WM5 of PPS 11 – Planning and Waste Management can be achieved.

Policy WM5 relates to Development in the Vicinity of Waste Management Facilities and states permission will only be granted where it will not prejudice or unduly restrict activities permitted to be carried out within the waste management facility and it would not give rise to unacceptable adverse impacts in terms of people, transportation systems or the environment. As this application site is located wholly or partially within 400m odour consultation zone boundary of Castlecaulfield WWTW, an Odour Encroachment Assessment is required to determine the compatibility of this proposal with the existing operation of the WwTW. An Odour Dispersion Model may also be required where the applicant will be required to fund the capital and operating costs of any mitigation measures.

NI Water confirm there is a public foul sewer within 20m of the proposed development

boundary and public water, however a high-level assessment has indicated potential network capacity issues. This establishes significant risks of detrimental effect to the environment and detrimental impact on existing properties and therefore NI Water recommends that connections to the public sewerage system are curtailed.

A Wastewater Impact Assessment (WwIA) - Ref: DS46703 and a Water Impact Assessment (WIA) - Ref: DS46705 from the applicant has been received by NI Water's Engineering Solutions Team. Both the WwIA and the WIA are ongoing to determine the best outcome to serve this planning proposal once they are completed.

The WWTW at Castlecaulfield is located approximately 400 metres to the north west of this site. While processing the applicant's other site (LA09/2021/1572/F) which is immediately adjacent to and south of this application site, the agent provided a letter from NI Water dated 2<sup>nd</sup> February 2022 which states,

"NIW have considered the location of the property under this application and can confirm that while it is inside the "Odour Consultation Zone Boundary", our assessment concludes that NIW will not, on the grounds of "incompatible development" raise an objection to any proposed development or reuse of the site."

I am content that due to the proximity of this application site that their response would be the same.

DfI Roads were consulted and a number of amendments were requested;

- Reduce the radius at the entrance to the development to 10m.
- Place PCP back to face each other.
- Insert parking spaces you're providing in table and on drawing.
- Show 2x33m access points and forward site distance in front of house no. 22 and 23.
- Show 2.4 x 33m at all internal junctions.
- Housing/Parking table and gradient table both on PSD.
- Levels 5m from back of footway should not exceed 1:12.5.
- Amalgamate both drawings (LA09/2022/0440/F and LA09/2022/0365/F) showing right turning lanes for both accesses for future development over 50 houses – set houses back to accommodate this, so DfI can adopt.

Following the submission of amendments and the Private Streets Determination Drawings, DfI Roads have no objection to this proposed development, subject to conditions.

The Council's Environmental Health section were consulted and they advised a condition is attached that approval will not be granted unless the sewerage system connecting the proposed development to the mains network is constructed to a standard capable of being approved by NI Water. They have no objections to this proposed development subject to a condition regarding the potential discovery of contamination.

The agent subsequently submitted a Contaminated Land Report which was carried out by Tetra Tech in September 2022. This report identified localised hydrocarbon contamination which is believed to be associated with a previous land use on the site

(former fuel storage tank). It is therefore recommended that remedial work is undertaken to mitigate the identified potential risk to human health. Environmental Health have no objections to the proposal subject to conditions regarding this contaminated land being attached to any approval. A Noise Impact Assessment was also submitted as part of this application, however no comments were made regarding it.

DfI Rivers were consulted on the Drainage Assessment submitted as part of this application and prepared by Mc Keown and Shields Ltd and. They note this is a preliminary drainage design and recommend a negative condition regarding the final Drainage Assessment to be submitted prior to any development on the site. They acknowledge that a Schedule 6 application to discharge to the Torrent River at a rate of 30.85l/s has been submitted.

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

### **Policy Consideration**

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

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

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS 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 retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS. As the site lies within the settlement limit of Castlecaulfield as defined in the above plan, SETT 1 is the relevant policy. I am content

that if this proposal complies with the provisions of PPS 7, it will also comply with SETT 1.

The agent submitted a Design Concept Statement, Biodiversity Checklist, Drainage Assessment Report, Land Contamination Assessment, Noise Impact Assessment, Transport Assessment, Landscape Management and Maintenance Plan and a Preliminary Ecological Appraisal, along with the relevant drawings.

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

The village of Castlecaulfield has recently experienced an increase in demand for residential properties. Its location close to the major transport links deem it a desirable location for commuting. The built fabric of the village is growing with housing developments proposed on vacant plots of land within the settlement limits of the village. Although there is no planning history on this application site, the area surrounding this site has recently either obtained planning permission for residential development or is going through the planning process for such.

The same applicant has obtained planning permission for a housing development adjacent to and south west of this site under application LA09/2021/1572/F for 29 dwellings. They also have an application for 24 dwellings on the opposite side of the road to this site currently under consideration under application LA09/2022/0365/F.

The premise of residential development is acceptable on this site due to its location within the development limits of Castlecaulfield. The site is fairly flat overall but rises slightly in a south easterly direction as can be seen from the streetscape of the proposal which fronts onto the roadside. The rear gardens of each property are defined by a timber fence with estate railing defining the side of the front garden, with a 1 metre hedge to the front of the curtilage. I am satisfied the scale and massing along with the hard and soft landscaping in this proposal creates an attractive quality residential development on this site.



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

Castlecaulfield has a rich heritage which is reflected in the presence of archaeological sites and monuments in and around the village. However, this application site located on the eastern outskirts of the settlement is not impacted by any of these features.

This application site located on the edge of Castlecaulfield appears to have had much vegetation removed from along this roadside boundary. The vegetation on the boundary separating the site from the Primary School and the eastern boundary running along the dwelling at No 140 Old Castlecaulfield Road are both to be retained as part of this development proposal in order to provide a degree of enclosure.

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.

Ten of the properties in this development will have a detached garage which occupies a footprint of 23 sq. metres and has a ridge height of 3.8 metres FGL. These garages are on the plots of the detached dwellings, except for the 2 either side of the main entrance to the development. Each property has a small front lawn with a tree in it as well as a larger lawn area to the rear which provides adequate private amenity space. A rectangular area of public open space is located in the rear corner in the south eastern of the site. A condition to retain the existing trees along the western and eastern boundaries can be attached to any permission to aid integrating this development into the surrounding area.

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

There is no requirement to provide local neighbourhood facilities as part of this planning application due to its scale. As this site is within the settlement limit of Castlecaulfield, a range of existing facilities are currently catered for in the village and easily accessed from this application site.

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

As this site lies within the development limits of Castlecaulfield village, it is within the 30 miles per hour restriction on the maximum speed and a speed ramp within the development will curtail traffic speed. A footpath is provided within this development site and there is an existing footpath outside of the adjacent Primary School. This avails of streetlighting which facilitates a safe route for pedestrians, connecting them to the centre of the village. The location of this site within the development limits of Castlecaulfield mean public transport can be accessed easily with service routes available to the larger towns of Dungannon and Cookstown. DfI Roads were consulted on this proposal as discussed below and are satisfied it complies with the provisions of PPS 3.

f) adequate and appropriate provision is made for parking;

This proposal includes 16 four-bed dwellings and 14 three-bed dwellings which requires an overall total of 76 parking spaces. I am satisfied there is sufficient parking provided in-curtilage for each dwelling in this development, as set out in Creating Places.

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

This proposal comprises a variety of semi-detached and detached dwellings of varying size and design.

There are 10 detached dwelling which all front onto the main road, with 6 of these having

a rear sunroom projection. There are another 2 detached dwellings at each side of the development at the end of the inner road, along which are 9 pairs of semi – detached dwellings. The detached dwellings also have a detached garage within their curtilage.

I am satisfied the variation in ridge height and finishes of the dwellings which respect the vicinity along with the provision of public and private open space provides for a quality residential development.

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;

There are no residential properties adjacent to this application site which could be impacted in terms of overlooking or overshadowing. Although the Blessed Patrick O'Loughran Primary School is adjacent to this site at the west, a line of trees currently forms this boundary and acts not only as a visual buffer but a sound one too and will therefore be conditioned to be retained. Although the hours this school is utilised throughout the year is limited, the retention of this boundary should reduce any potential conflicting interests. A Noise Impact Assessment was submitted as part of this development proposal and Environmental Health had no comment to make.

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

I am satisfied that the development is considered to be designed to deter crime and promote personal safety. Parking is provided for within the curtilage of each dwelling and street lighting currently exists on the opposite side of the road to this application site, ending just after the entrance to the school.

### **Planning Policy Statement 3 - Access, Movement and Parking.**

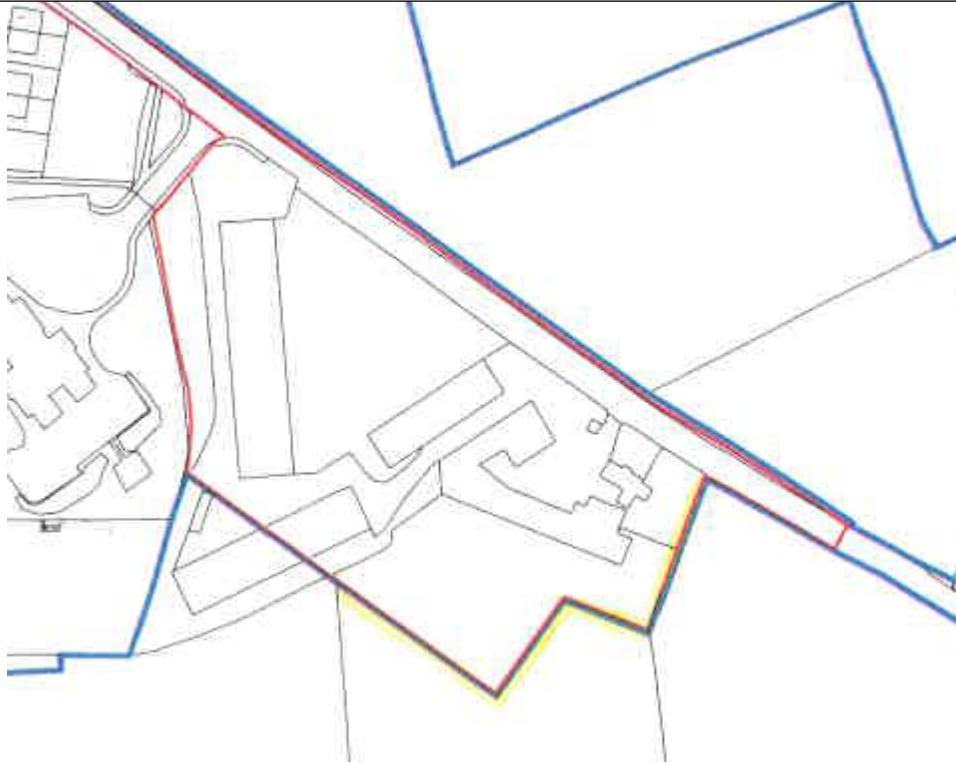
Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves the creation of a new access onto the Old Castlecaulfield Road. DfI Roads were consulted and requested visibility splays of 4.5 metres x 70 metres at the junction of the proposed access road with the Old Castlecaulfield Road. There are 8 dwellings which also access onto this road with 4 of the houses having a shared access with their neighbour. Following the submission of drawings with amended details and the Private Streets Determination Drawings, DfI Roads are content this proposal complies with PPS 3.

## **PPS 21 – Sustainable Development in the Countryside**

Policy CTY 15 states that planning permission will be refused for development which mars the distinction between a settlement and the surrounding countryside, or that otherwise results in urban sprawl. This application site covers an area of 1.5 hectares, of which approximately 0.28 hectares lies outside of the settlement limit. The part of this development proposal which lies outside of Castlecaulfield's development limit as defined in the DSTAP is in the south eastern portion of the site. This includes the area of public amenity space as well as the 5 dwellings on Plots 11, 12, 13, 14 and 15 which propose 2 pairs of semi-detached and 1 detached two storey dwelling.

CTY 15 aims to promote and contain development within a settlement, as well as protecting the identity of each settlement with the landscape immediately around it playing an important role in maintaining this distinction between town and country. Although this development proposes to include land which is outside of the development limit, I would not be highly concerned due to the location of the land impacted to the rear of the site and not along the roadside. Development on the area of land which lies within the countryside would not be highly obvious due to the inclusion of land between it and the main road within the limits. As the applicant has shown the land surrounding this site in blue and therefore under their ownership, the provision of a substantial landscape buffer around the edges of this development site abutting the countryside would reinforce the distinction between urban and rural fringe as below.





An Environmental Impact Screening Determination was carried out for this proposal as it fell within Category 10 – Infrastructure Projects part (B) - The carrying out of development to provide for urban development projects, including the construction of shopping centres and car parks, of Schedule 1 of the Planning (Environmental Impact Assessment) Regulations (NI) 2017.

The proposed development in this application is an urban development project and the area exceeds 0.5 ha. Under Regulation 12 (1) of these regulations, the Council is obliged to make a determination as to whether this application is for EIA development.

Mid Ulster Council has determined that the environmental impacts of this application are thought not to be so significant as to warrant the submission of an Environmental Statement under current EIA legislation. The environmental effects of this proposal will be assessed via the Development Management process under the relevant policies, as discussed above.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas 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). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

This application was advertised in the local press and 4 letters were sent to residents

neighbouring this site. There were no objections received about this proposal.

This application has been advertised in Local Press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015. There were 2 neighbouring properties which were notified and there were no objections received.

### **Summary of Recommendation:**

Approve is recommended

As this proposal does not comply with the provision of CTY 15 in PPS 21 and is therefore contrary to policy, this application must go forward to the Planning Committee. There are no objections and this application fulfils the other pertaining policies. Provided a pre-commencement condition is attached to plant a landscape buffer along the indicated boundaries of the site, I would advise Members to approve this proposal.

### **Approval Conditions**

#### **Condition 1**

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

Reason: Time Limit

#### **Condition 2**

The visibility splays of metres 4.5 metres x 70 metres at the junction of the proposed access road with the Old Castlecaulfield Road, shall be provided in accordance with Drawing No 29 bearing the date stamp 29th October 2022, prior to the commencement of any works or development. 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 satisfactory means of access in the interests of road safety and the convenience of road users.

#### **Condition 3**

The access gradients to the dwellings hereby permitted shall not exceed 8% (1 in 12.5) over the first 5 metres outside the road boundary. Where the vehicular access crosses footway, the access gradient shall be between 4 % (1 in 25) and maximum 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 satisfactory means of access in the interests of road safety and the convenience of road users.

Condition 4

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 completion of the development.

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

Condition 5

Notwithstanding the provisions of the Planning (General Development) (Northern Ireland) Order 1993, no buildings, walls or fences shall be erected, nor hedges, nor formal rows of trees grown in the verges or service strips determined for adoption.

Reason: To ensure adequate visibility in the interests of road safety and the convenience of road users and to prevent damage or obstruction to services.

Condition 6

Prior to the commencement of any development hereby permitted, the applicant must provide in writing to be agreed to by Mid Ulster District Council, a suitable 8-10 metre wide landscape buffer of native species vegetation to be planted along the boundaries as coloured yellow on Drawing No 01 date stamped 4th April 2022.

Reason: To establish the boundary between the development and the countryside.

Condition 7

Prior to the commencement of any of the approved development on site, a Final Drainage Assessment, compliant with Annex D of PPS 15 and Sewers for Adoption Northern Ireland 1st Edition must be submitted to Mid Ulster District Council Planning Department for its consideration and agreed in writing. It must contain a detailed drainage network design including a demonstration of how out-of-sewer flooding will be safely managed.

Reason - In order to safeguard against surface water flood risk to the development and manage and mitigate any increase in surface water flood risk from the development to elsewhere.

Condition 8

No dwelling shall not be occupied until all the remedial measures, as per Section 6 of Tetra Tech Report stamp dated September 2022, have been implemented to the satisfaction of Mid Ulster District Council. The remediation scheme shall be validated in order to ensure and verify that it has been implemented in accordance with the scheme and the objectives have been met. This substantiating information shall be submitted to

and agreed in writing by Mid Ulster District Council.

Reason: To ensure there is no risk to human health and that appropriate methods of handling and treating any contaminated land are controlled.

#### Condition 9

There shall be no deviation or amendments to the design of the remediation scheme without the prior written approval of Mid Ulster District Council prior to works being commenced on the site

Reason: To ensure there is no risk to human health and that appropriate methods of handling and treating any contaminated land are controlled.

#### Condition10

In the event that previously unknown contamination is discovered falling outside the scheme of the previous assessment and approved remediation scheme, development on the site shall cease pending the submission of a written report, detailing the proposed investigation, risk assessment and remediation scheme to be agreed by Mid Ulster District Council and the Northern Ireland Environment Agency. Development works shall not resume until the approved written report has been fully implemented to the satisfaction of Mid Ulster District Council and the Northern Ireland Environment Agency.

Reason: To ensure the appropriate methods of handling and treating any contaminated land are controlled.

#### Condition11

The open space and amenity areas indicated on the stamped approved Drawing 28 REV 1 date stamped 9th November 2022, shall be managed and maintained in accordance with the Landscape Management Plan, stamped received on 26th April 2022. Any changes or alterations to the approved landscape management arrangements shall be submitted to and agreed in writing by Mid Ulster District Council.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space and amenity areas in the interests of visual and residential amenity.

#### Condition12

Prior to the occupation of any of the dwellings hereby approved, the developer shall provide a signed agreement with a landscape management company for the maintenance of the area of open space. The area of open space as detailed on Drawing 87 REV 1 date stamped 9th November 2022, shall be maintained by the nominated management company in accordance with the Landscape Management Plan.

Reason: To ensure successful establishment and ongoing management and maintenance (in perpetuity) of the open space in the interests of visual and residential amenity.

#### Condition13

All detached garages permitted in this development are ancillary to the dwelling and are

for domestic purposes only.

Reason- To maintain the residential use on this site.

**Condition14**

The development hereby permitted shall not commence until such time as the developer has gained consent from NI Water to allow connection of the proposed development to the public sewer network and this condition has been formally discharged in writing by the Council.

Reason: In the interests of public health.

**Condition15**

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

PSDo2 - The Department for Infrastructure has determined that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 29 bearing the date stamp 29th October 2022.

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.

**Condition16**

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

PSDo2 - No other development hereby permitted shall be occupied until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing No 29 bearing the date stamp 29th October 2022.

The Department for Infrastructure has attached 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 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.

**Signature(s):** Cathy Hughes

**Date:** 25 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	4 April 2022
<b>Date First Advertised</b>	28 April 2022
<b>Date Last Advertised</b>	26 April 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier Blessed Patrick O'Loughran Primary School, Castlecaulfield, Dungannon BT70 3NQ The Owner / Occupier 128 Old Caulfield Road Dungannon Tyrone BT70 3NQ	
<b>Date of Last Neighbour Notification</b>	28 April 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBC Environmental Health Mid Ulster Council-Substantive: TBC NI Water - Multiple Units West-Substantive: TBCResponseType: PR DFI Roads - Enniskillen Office-2022 0440 F Coversheet.docx Rivers Agency-496007-07 Final Planning Authority reply.pdf DFI Roads - Enniskillen Office- Environmental Health Mid Ulster Council-Planning Response 2 LA09-22-0440.pdf	

**Drawing Numbers and Title**

Roads Details	Plan Ref: 26
Proposed Plans	Plan Ref: 25
Proposed Elevations	Plan Ref: 24
Proposed Floor Plans	Plan Ref: 23
Proposed Elevations	Plan Ref: 22
Proposed Elevations	Plan Ref: 21
Proposed Floor Plans	Plan Ref: 20
Proposed Elevations	Plan Ref: 19
Proposed Elevations	Plan Ref: 18
Proposed Floor Plans	Plan Ref: 17
Proposed Elevations	Plan Ref: 16
Proposed Elevations	Plan Ref: 15
Proposed Floor Plans	Plan Ref: 14
Proposed Elevations	Plan Ref: 13
Proposed Elevations	Plan Ref: 12
Proposed Elevations	Plan Ref: 11
Proposed Floor Plans	Plan Ref: 10
Block/Site Survey Plans	Plan Ref: 09
Site Layout or Block Plan	Plan Ref: 08
Site Layout or Block Plan	Plan Ref: 07
Site Layout or Block Plan	Plan Ref: 06
Site Layout or Block Plan	Plan Ref: 05
Site Layout or Block Plan	Plan Ref: 04
Site Layout or Block Plan	Plan Ref: 03
Site Layout or Block Plan	Plan Ref: 02
Site Location Plan	Plan Ref: 01
Site Layout or Block Plan	Plan Ref: 02 Rev 1
Proposed Floor Plans	Plan Ref: 14 Rev 1
Proposed Elevations	Plan Ref: 15 Rev 1
Proposed Elevations	Plan Ref: 16 Rev 1
Landscape Proposals	Plan Ref: 27 Rev 1
Landscaping Plan	Plan Ref: 28 Rev 1
Proposed Floor Plans	Plan Ref: 17 Rev 1
Proposed Elevations	Plan Ref: 18 Rev 1
Proposed Elevations	Plan Ref: 19 Rev 1

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.14
<b>Application ID:</b> LA09/2022/0490/O	<b>Target Date:</b> 7 June 2022
<b>Proposal:</b> Proposed dwelling and garage on a farm	<b>Location:</b> 194M S.W. Of 8 Killybearn Lane Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Martyn Devlin 9 Farm Lodge Lane Magherafelt	<b>Agent Name and Address:</b> OJQ Architecture 89 Main Street Garvagh Coleraine BT51 5AB
<b>Executive Summary:</b>  To Committee - Refusal - Contrary to CTY 1, 10 and CTY 13 of PPS 21 and one objection received.	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Omagh	LA09-2022-0490-O.DOCXSee uploaded document
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation outline approval.docx
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-0490-O.DOCX

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	1
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1, 10 and CTY 13 of PPS 21 and one objection received.

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

The proposed site is located approximately 2.75km east of the development limits of Cookstown, as such the site located within the open countryside as per the Cookstown Area Plan 2010. The site has been identified as 194m SW of 8 Killybearn Lane, Cookstown in which the red line covers the southern portion of a much larger agricultural field. The site is proposing access off the shared laneway off the Killybearn Lane. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.

### **Representations**

Seven neighbour notifications were sent out however one objection was received. Summary of objections are as below;

- Concerns over the access being safe and adequate to facilitate a family home – especially during the construction phase and transport of materials.
- Suggested that this is to be a farm dwelling and garage is economic with the true meaning of the interpretation.

## **Description of Proposal**

This is an outline application for a proposed dwelling and garage on a farm, the site is located 194M S.W. Of 8 Killybearn Lane, Cookstown.

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

### **Policy Consideration**

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Cookstown Area Plan 2010

PPS 1 – General Principles

PPS 3 – Access, Movement and Parking

PPS 21 – Sustainable Development in the Countryside

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

CTY 1 – Development in the Countryside

CTY 10 – Dwellings on the Farm

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically

with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

- (a) the farm business is currently active and has been established for at least 6 years;
  - (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. This provision will only apply from 25 November 2008; and
  - (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.
- Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-
- demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that there was no farm business number submitted, wherein the agent confirmed that the applicant only had applied for one during this application. I note a series of receipts along with a lease agreement dating from 2014-2023 were provided to demonstrate activity. I am content that this is sufficient to show some level of activity however given the issue of the business number I am not content that the business is established.

With respect to (b), given the lack of business number there was no farm maps provided with this application. However the agent confirmed in writing that the lands shown in the location plan were the only lands associated with the business. Upon review of these lands I note that no farm approvals have been attained on it nor any other development opportunities.

With respect to (c), I first note that the registered address of the farm business sits approximately 200m north of the site with the applicant living in development limits of Magherafelt some distance away. I note that the applicant is relying on what they have identified as ‘existing animal handling facilities’ within the site for visually linkage and clustering. I have a number of concerns with this; I note that ‘existing animal handling facility’ in my opinion does not constitute a building on the farm, nor is there any planning permission for an agricultural building at this location. From the below photo it is clear that this is just a number of tin sheets and wouldn’t constitute as a building.



Even if this for whatever reason would be constituted as a building, it is not constituted as an existing group of buildings on the farm. I contend that the buildings located no.8 Killybearn Lane constitute as the only group of buildings on the farm and any dwelling should be sited beside such. I hold the view that a dwelling located within the site would be too far detached from the buildings at No.8 to constitute visual linkage or clustering.

This concern was raised to the agent and in response provided a statement to clarify the issues, they refer to approvals – LA09/2018/0874/O and LA09/2021/0168/O as precedent. In terms of LA09/2018/0874/O, state that planning permission was granted located in a field with an animal handling facility similar to this proposal. Upon review of this, I note that this building was actually discounted and the application was approved by virtue that there are no buildings on the farm and taken on its own merits. The issue here is that there are a group of buildings at no.8.

With regards to LA09/2021/0168/O, it was stated by the agent that this was approved set up a laneway some distance from the existing farm buildings but with a degree of visual linkage similar to this application. Again upon review of this, it appears that the initial opinion was that the application was unacceptable given the separation distances but seems to have been granted by virtue that that was the only location that provided adequate separation distance from a neighbouring cattle shed. This is not the case in this application. From this I hold the view that this application fails under CTY 10 of PPS 21.

Upon review of the remainder of the policies of CTY 1 I hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

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 hold the view than an appropriately designed dwelling will not appear as visually prominent in the landscape. I note that as much of the existing

landscaping should be retained and supplemented with additional landscaping, with such any dwelling would be able to successfully integrate. Given the landform and surrounding development I feel it necessary to restrict any ridge height to 6.5m. As noted the site is not located to cluster or visually link with an established group of buildings on the farm. Given such I hold the view that the application does not fully comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As such I am content that an appropriately designed dwelling would not appear unduly prominent in the landscape. I note that dwelling is unlikely to result in adverse impact on the rural character of the area. I am content that this is able to comply under CTY 14.

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.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

In response to the comments made by the objector; with regards to the comments in relation to the laneway and access. I note Roads have deemed the access acceptable and in terms of the laneway this can be easily upgraded and fit for purpose. In terms of the comments in relation to the farm, as expressed I am not content that this is a valid farm case as expressed above.

I have no ecological or residential amenity concerns.

The proposal has failed under CTY 1,10 and 13 of PPS 13 as such a refusal is recommended.

#### **Summary of Recommendation:**

Refuse is recommended

#### **Refusal Reasons**

**Reason 1**

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

**Reason 2**

The proposal is contrary to 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 for at least six years nor is the proposed dwelling visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Peter Henry

**Date:** 17 January 2023

ANNEX	
<b>Date Valid</b>	12 April 2022
<b>Date First Advertised</b>	3 May 2022
<b>Date Last Advertised</b>	3 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 1 Killybearn Lane Cookstown Londonderry BT80 8SX The Owner / Occupier 10 Killybearn Lane Cookstown Londonderry BT80 8SX The Owner / Occupier 12A Killybearn Lane Cookstown Londonderry BT80 8SX The Owner / Occupier 6 Killybearn Lane Cookstown Londonderry BT80 8SX  The Owner / Occupier 2 Killybearn Lane Cookstown Londonderry BT80 8SX The Owner / Occupier 12 Killybearn Lane Cookstown Londonderry BT80 8SX The Owner / Occupier 24 Derrygonigan Road Cookstown Londonderry BT80 8SU	
<b>Date of Last Neighbour Notification</b>	28 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DAERA - Omagh-LA09-2022-0490-O.DOCXSee uploaded document DFI Roads - Enniskillen Office-Roads Consultation outline approval.docx DAERA - Coleraine-Consultee Response LA09-2022-0490-O.DOCX	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.15
<b>Application ID:</b> LA09/2022/0520/F	<b>Target Date:</b> 16 June 2022
<b>Proposal:</b> Proposed 30m telecommunication mast with 3No. antennae, 3no. radio units and 2No. radio dishes. Proposal includes the provision of an equipment compound and associated ancillary development.	<b>Location:</b> On Lands C.107M South Of No.19 Lisnagleer Road Dungannon BT70 3LN.
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Cornerstone Hive 2 1530 Arlington Business Park Berkshire RG7 4SA	<b>Agent Name and Address:</b> C/O Les Ross Planning 14 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan

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### Consultations:

Consultation Type	Consultee	Response
	Environmental Health Mid Ulster Council	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09-22-0520 F On Lands C.107M South Of No.19 Lisnagleer Road Dungannon BT70 3LN.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation blank.docx

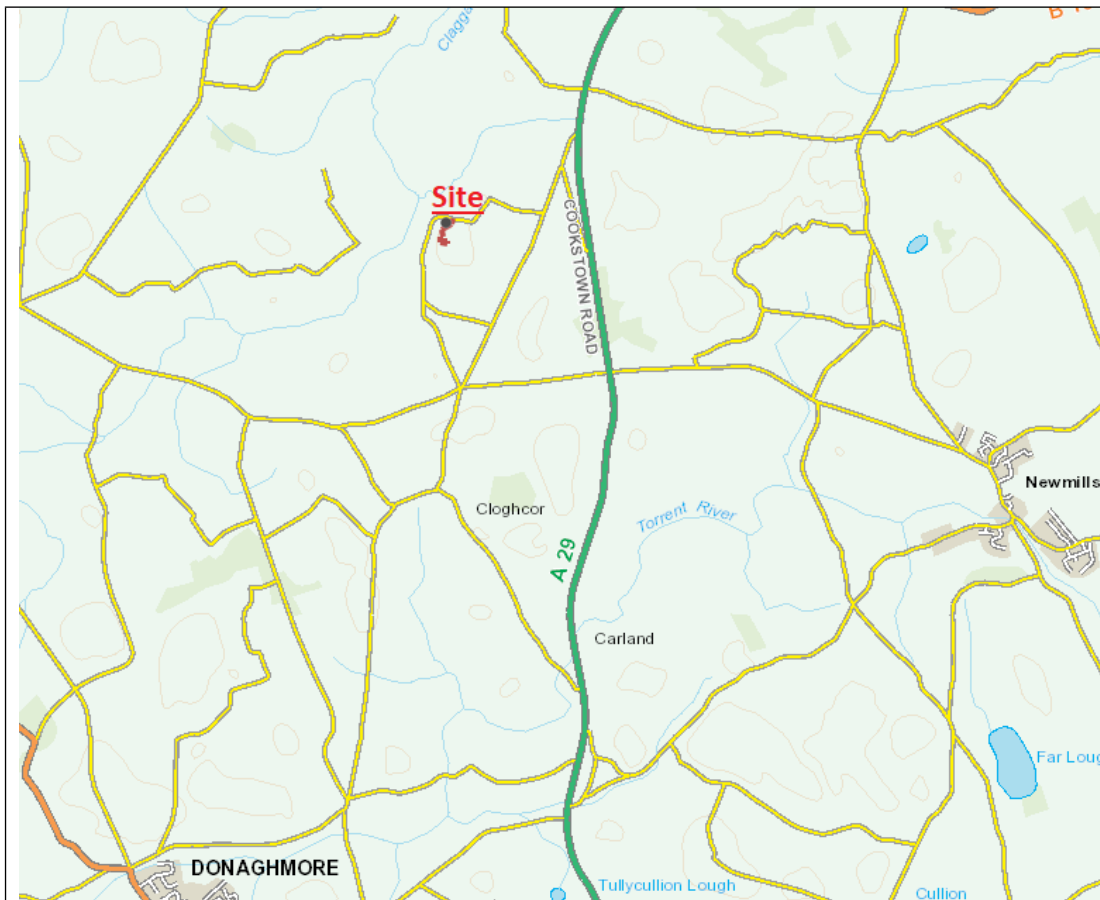
### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	8
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

The site lies in the open countryside sandwiched between the settlements of Cookstown to the North and Dungannon to the South, in the open countryside and outside all other areas of constraint as depicted by the Dungannon and South Tyrone Area Plan 2010. It is located just oof the Main Dungannon Cookstown line situated approx 100 South of number 19 Lisnagleer Road.



The site is access via a gravel laneway with a grassed mid section to the rear of number 19 Lisnagleer road and then follows the tree line to a corner of the field to the rear.



It is approx. 200 metres from the roadside and has mature trees on the southern and western boundaries, the north and east boundaries remain undefined on the ground.



### **Description of Proposal**

The proposal seeks full planning permission for a 30m telecommunication mast with 3No. antennae, 3no. radio units and 2No. radio dishes. Proposal includes the provision of an equipment compound and associated ancillary development.

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

#### **Policy Consideration**

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

### Relevant Histories

None

### Representations

To date there have been seven third party representations received. There has also been correspondence from councillors Dan Kerr and Keith Buchannon.

The objections detail a number of concerns;

- Why is existing site not sufficient, is this a second site?
- Traffic congestion and infrastructure not suitable for heavy plant
- Road safety concerns
- Site lines
- If land is leased why is it not a temporary application
- Impact on visual amenity and rural character
- Health concerns

Devaluation of property

### Assessment of objections

.....

### Other Constraints

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

The site is not located within or adjacent to any listed building / structures.

### Mid Ulster District Council Draft Plan Strategy 2030

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

### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS 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'.

The aim of the SPPS in relation to telecommunications and other utilities is to facilitate the development of such infrastructure in an efficient and effective manner while keeping the environmental impact to a minimum.

Applications for the development of telecommunications equipment should be required to be accompanied by a statement declaring that when operational the development will meet the ICNIRP guidelines for public exposure to electromagnetic fields. This proposal has been accompanied by such a statement which Environmental Health have accepted as being acceptable.

#### PPS 10: Telecommunications

PPS 10 allows for the approval of telecommunications apparatus subject to a number of strict criteria being fulfilled. The Planning Department of the Council will permit proposals for telecommunications development where such a proposals, together with any necessary enabling works, will not result in unacceptable damage to visual amenity or harm to environmentally sensitive features or locations. Developers will therefore be required to demonstrate that proposals for telecommunications development, having regard to technical and operational constraints, have been sited and designed to minimise visual and environmental impact.

Proposals for the development of a new telecommunications mast will only be considered acceptable by the Department where the above requirements are met and it is reasonably demonstrated that:

- (a) the sharing of an existing mast or other structure has been investigated and is not feasible; or
- (b) a new mast represents a better environmental solution than other options.

The agent has provided 5 sites that were considered though not chosen as the final proposed siting area. Reasons are provided as to why these sites were unsuitable in the submitted supporting statement. I am satisfied that alternative site options have been investigated, and it has been demonstrated that all 5 site options are not feasible.

Applications for telecommunications development by Code System Operators or broadcasters will need to include:

- (1) information about the purpose and need for the particular development including a description of how it fits into the operator's or broadcaster's wider network;

The applicant has indicated that there is an existing mast near by, however, it has been explained that it must be removed and a new location found. In the supporting statement submitted to the planning department, it is stated that the Lisnagleer road was considered the most appropriate site for a number of reasons including proximity to existing sites to serve the target area, the topography of the site and the setting of the equipment in an area well separated from residential properties. They state that the proposed mast will not only serve existing phone users but enhance the coverage within the area. They also state 'telecom cells are all interlinked, the forced removal of the existing ones without replacement would have a significant knock on impact on the other cells being put under too much pressure in an area under high demand from local business as well as residents.

The agent has also submitted two further reports ('General Background Information for Telecommunications Development') which provide further clarification as to the purpose and requirement for such development, and how such development will help to facilitate the wider telecommunications network. This coupled with the unsuitability of the existing structure has satisfied

the purpose and need for the proposal. With this, I am satisfied that it has been demonstrated that there is a particular need for this development and I am content that it fits into the operator's wider network.

(2) details of the consideration given to measures to mitigate the visual and environmental impact of the proposal;

Measures taken to mitigate the visual and environmental impact of the proposal take the form of consideration given to the precise siting of the column itself. The agent has provided that the selected site was the most suitable, not only from a technical standpoint, but also by way of preserving amenity. The site is well separated from surrounding residential properties. The closest dwelling to the site is over 100m away, which ensures there are no issues with overshadowing and/or overlooking. The proposed column is sited in an elevated area, however, the agent provides that the proposed development will have negligible impact on the landscape and visual amenity, given the distance from the Lisnagleer Road. The submitted supporting statement also provides the reasons for the choice of design of the column. The Swann CS5S was chosen in this instance, with an antenna height of 30m as it is required to provide reasonable quality 4G & 5G coverage. This design is also cited as being 'one of the slimmest lattice masts' that is capable of supporting the associated range of equipment required. Given this, the distance of the proposed site from surrounding dwellings and roads, as well as the existing dense mature roadside vegetation including trees ranging from approximately 10-15 metres in height, I am content that the proposed can integrate well into the surrounding environment. Adequate consideration has been given to measures to mitigate the visual / environmental impact of the proposal. I am also satisfied that the chosen site is not subject to any mapped designations and is not located near to any protected areas, including SACs, SPAs and Ramsar sites.

(3) where proposals relate to the development of a mobile telecommunications base station, a statement indicating its location, the height of the antenna, the frequency and modulation characteristics, details of power output; and declaring that the base station when operational will meet the ICNIRP guidelines for public exposure to electromagnetic fields;

This proposal has included a location map and elevations showing the height of the proposed mast. The frequency, modulation characteristics and details of power output have also been provided in the submitted supporting statement. An ICNIRP certificate was also submitted with the application. Consultation was made with Environmental Health and in their consultation advises they would have 'no objections to the granting of planning permission.'

I have considered the proposal before me against the above policy as outlined in PPS 10. Having assessed the application and evidence provided against this policy, I consider the proposal to be acceptable.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

The development hereby permitted shall be begun before the expiration of 5 years from



the date of this permission.

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

**Condition 2**

The vehicular access including visibility splays and any forward sight distance, shall be provided in accordance with Drawing No 100A bearing the date stamp 26th July 2022 prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

Within 12 months of the telecommunications mast becoming obsolete at the site all structures shall be removed and the land restored in accordance with a scheme to be submitted to and agreed in writing with Mid Ulster District Council at least one year prior to the commencement of any decommissioning works.

Reason: To restore the amenity of the area.

**Signature(s):** Peter Hughes

**Date:** 23 January 2023



<b>ANNEX</b>	
<b>Date Valid</b>	21 April 2022
<b>Date First Advertised</b>	3 May 2022
<b>Date Last Advertised</b>	3 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 19A Lisnagleer Road Dungannon Tyrone BT70 3LN  The Owner / Occupier 19 Lisnagleer Road Dungannon Tyrone BT70 3LN The Owner / Occupier 18 Lisnagleer Road Dungannon Tyrone BT70 3LN	
<b>Date of Last Neighbour Notification</b>	4 May 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  Environmental Health Mid Ulster Council-Substantive: TBC DFI Roads - Enniskillen Office-Substantive: TBC Environmental Health Mid Ulster Council-LA09-22-0520 F On Lands C.107M South Of No.19 Lisnagleer Road Dungannon BT70 3LN.doc DFI Roads - Enniskillen Office-Roads Consultation blank.docx	

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01  
Proposed Elevations Plan Ref: 03  
Site Layout or Block Plan Plan Ref: 02

**Notification to Department (if relevant)**

Not Applicable

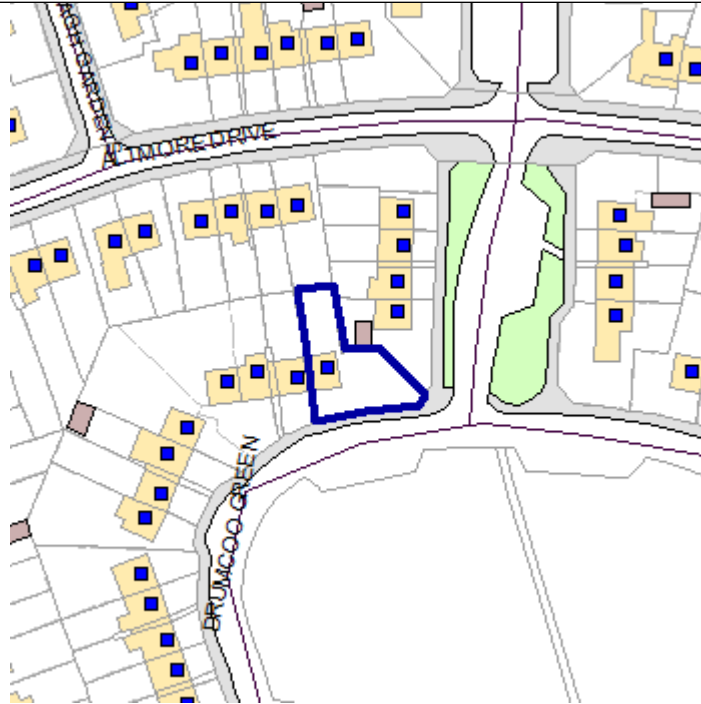


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.16
<b>Application ID:</b> LA09/2022/0551/F	<b>Target Date:</b> 22 June 2022
<b>Proposal:</b> Proposed two storey dwelling	<b>Location:</b> Lands At 64 Drumcoo Green Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ryan Graham MC Curry 64 Drumcoo Green Dungannon	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	NI Water - Single Units West	Substantive: TBC
	DFI Roads - Enniskillen Office	Substantive: TBC
	DETI - Geological Survey (NI)	Substantive: TBC
Statutory Consultee	NIEA	PRT LA09-2022-0551-F SA.PDF

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The application site is within the settlement limit of Dungannon as defined in the

Dungannon and South Tyrone Area Plan 2010. The surrounding area is urban in character and is within older cul-de-sacs. The immediate area is predominantly residential and rows of terraced housing. To the east of the housing is the Coalisland Road with a nearby retail park with Sainsburys and Home Bargains. To the west of the housing is the Carland Road which is a highly trafficked road between Dungannon and Cookstown.

The application site is a corner site in a row of four terraced housing and faces onto a large open space for the cul-de-sac. The dwelling at No. 64 has external finishes of brown profiled roof tiles, white pebbledash walls and white upvc windows and doors. To the front and side of the dwelling is a grassed area with a low wooden fence as the boundary treatment.

### **Description of Proposal**

This is a full application for proposed two-storey dwelling at Lands At 64 Drumcoo Green, Dungannon.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

No planning history at the application site.

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

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

**Dungannon and South Tyrone Area Plan 2010**

The site is within the settlement limits of Dungannon as defined in the Dungannon and South Tyrone Area Plan 2010 so SETT 1 is the relevant policy which applies. The site is not within any other zonings or designations within the Plan. The proposal is for a two-storey detached dwelling on a smaller plot size than adjacent dwellings and there is minimal amenity space to the rear of the dwelling. The proposal does not reflect the house type and plot size in the immediate area and as such does not create a sense of place in the area. The site is not within an area with any conservation interests. NI Water have stated in their response there is no capacity for connection to the mains sewage system and I am of the opinion due to the constricted nature of the site it would be difficult to have a septic tank on the plot. However the applicant has shown a treatment plant in the rear garden of No. 64 to service the proposed dwelling. Overall, I consider the proposal does not meet all the criteria in SETT 1.

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

**Planning Policy Statement 7 – Quality Residential Environments****Policy QD 1 – Quality in New Residential Development**

The application site is a portion of land to the side and within the curtilage of No. 64 Drumcoo Green in Dungannon. The site is within the settlement limit of Dungannon in an area which is predominantly residential. The site itself is on the corner of Drumcoo Green in a row of four terraced houses and is at a T junction. It is mainly two-storey terraced dwellings in this area. The proposal is for a two-storey detached dwelling in the side garden area of the existing dwelling at No. 64 as shown in figure 1 below. However, I am of the opinion the proposed dwelling does not respect the constraints of the site itself. The plot size is significantly smaller than adjoining dwellings and does not respect the character of the area as the majority of the dwellings have generous sized gardens to the rear of the dwelling. I consider the proposal can be considered overdevelopment.

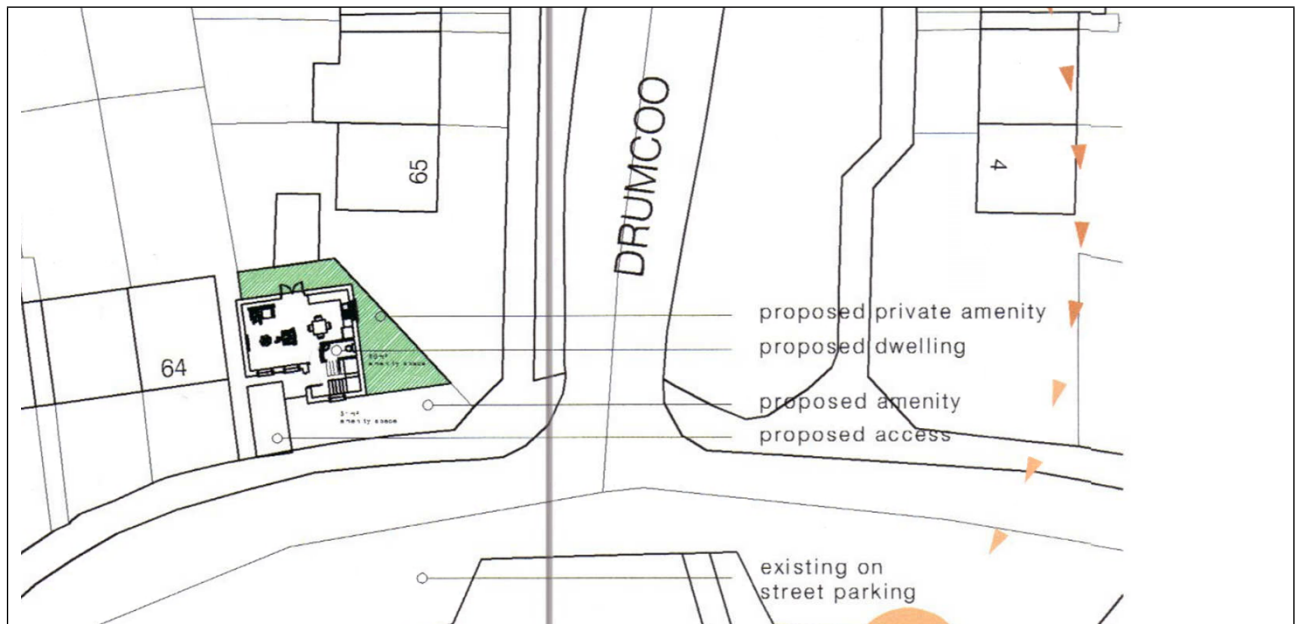


Figure 1 – snapshot of the siting of the proposed dwelling

There are no archaeological or landscape features at the site.

The Department's guidance, Creating Places, at paragraph 5.19 states that for any individual house, private open space of less than around 40 square metres will generally be unacceptable. The policy also states the private open space should be behind the building line and as shown in figure 1 above the majority of the private amenity space in this proposal is to the side of the dwelling. There is a small amount of space to the rear of the dwelling but this is not over 40sqm which fails this criteria in the policy.

As this is a proposal for a single dwelling there is no requirement to provide neighbourhood facilities.

The proposal will create a new access off a public road so DFI Roads were consulted and they responded with no concerns subject to visibility splays.

The site is about a 10-15-minute walk to the nearby retail park where there is Sainsburys, Home Bargains and other shops and there are footpaths from the site to the town centre in Dungannon.

The proposal is for a two-storey dwelling at approximately the same ridge height as the neighbouring dwellings and will have an L-shaped form. The proposed external finishes are blue/black concrete roof tiles, painted dash walls and upvc windows and doors. I am content the scale and massing of the proposed dwelling is acceptable as it is approximately the same footprint and size as the dwellings in the immediate area. There is a double height projection on the front elevation which is not characteristic of this area as the predominant house type is terraced housing.

In terms of overshadowing, Figure 2 below shows the side amenity space of No. 65 and Figure 3 shows the application site. There may be some overshadowing to the rear

amenity space of No. 65 as the afternoon sun hits the proposed dwelling. However, members should be aware there already is a single storey shed along the boundary with the site which may already create overshadowing. The photograph in Figure 2 was taken in early morning and shows there is already some overshadowing in No. 65's garden and as the sun moves around there is the potential for greater overshadowing to this area.



Figure 2 – Side amenity space of No. 65



Figure 3 – Image of the application site.

The agent has submitted overshadowing sun studies for December and June showing the existing and proposed with the detached dwelling in place. In terms of both December and June the visuals are showing no greater overshadowing than what currently exists. At this stage it is difficult to confirm the extent of any overshadowing to neighbouring dwellings.



In terms of dominance, there is a 2m separation distance from the rear wall of the proposed dwelling to the rear boundary with No. 65. However, there is already a single storey garage along the boundary which will mitigate against any views of the proposed dwelling.

The applicant has shown on the block plan space for two car parking spaces but there are a few dwellings which have hardcored the front area for carparking but the majority of the dwellings use on-street car parking. Therefore, I have no concerns about parking at the site.

Overall, I consider the proposal does not meet all the criteria in QD1 in PPS 7.

### **Addendum to Planning Policy Statement 7 – Safeguarding the Character of Residential Areas**

#### **Policy LC 1 – Protecting Local Character, Environmental Quality and Residential Amenity**

The proposal is for a two-storey detached dwelling situated on the side garden area of No. 64 Drumcoo Green. The footprint of the proposed dwelling is slightly larger than what currently exists at 100sqm for this dwelling and existing dwelling are 84sqm. Also, the overall plot size is significantly smaller than adjacent properties. The majority of the dwellings have rear gardens at least 10m in depth while the application site only has a rear garden of a depth of 2m. I consider the plot size and rear amenity space does not the pattern of settlement within the area. I consider the proposed density is higher than the established area and will detract from the overall character of the area. Annex A in the policy states a two-storey two-bedroom house should have a floorspace of at least 70m<sup>2</sup> and the proposal is 100m<sup>2</sup>. Overall, I consider the proposal does not meet all the criteria in LC1.

#### **Planning Policy Statement 3 – Access, Movement and Parking** **Policy AMP 2 – Access to Public Roads**

The site does not access onto a protected route so I have no concerns about this criterion of the policy.

A new access is being created onto the public road so DFI Roads were consulted as the statutory authority. Roads responded with no concerns subject to visibility splays of 2m x 33m. The access will run alongside the boundary with No. 64.

#### **Other Considerations**

NI water were consulted as the proposal is for an additional dwelling within the settlement limit of Dungannon. NI Water responded stating there is no waste water capacity at present for the dwelling and there are ongoing capacity issues with the Dungannon waste water treatment works. In discussions with the agent I explained the issues in Dungannon for connection to the mains waste water treatments and a septic tank or treatment plant would be needed at the site. In my opinion due to the small-scale size of the site it may be difficult to place a septic tank on the site and have sufficient distance from neighbouring boundaries. In a subsequent revised drawing submitted the

agent has proposed a package treatment plant in the rear garden of No. 64 which is at least 7m from the boundary of neighbouring dwellings.

Geological Survey were consulted and confirmed there are no boreholes or mines at the application site or in the immediate vicinity.

I completed a check on the statutory map viewers and there are no other ecological, built heritage or flooding issues at the application site.

### **Summary of Recommendation:**

Refuse is recommended

The proposal is recommended for refusal.

### **Refusal Reasons**

#### **Reason 1**

Contrary to QD1 in PPS 7 - Quality Residential Environments and Contrary to Plan Policy SETT 1 - Settlement Limits in the Dungannon and South Tyrone Plan 2010 in that the development if permitted would be overdevelopment as the plot size is smaller than adjoining sites and there is limited amenity space.

#### **Reason 2**

Contrary to LC1 in Addendum to PPS 7 - Safeguarding the Character of Residential Areas in that the density of the development is higher than in the surrounding residential area and the pattern of development is not in keeping with the overall character of the area.

**Signature(s):** Gillian Beattie

**Date:** 18 January 2023

ANNEX	
Date Valid	27 April 2022
Date First Advertised	20 October 2022
Date Last Advertised	10 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 22 Altmore Drive Dungannon Tyrone BT71 4AE The Owner / Occupier 63 Drumcoo Green Dungannon Tyrone BT71 4AN The Owner / Occupier 65 Drumcoo Green Dungannon Tyrone BT71 4AN The Owner / Occupier 66 Drumcoo Green Dungannon Tyrone BT71 4AN The Owner / Occupier 24 Altmore Drive Dungannon Tyrone BT71 4AE	
Date of Last Neighbour Notification	5 October 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: M/1993/4068 Proposals: Multi element improvements Decision: PDNOAP Decision Date:  Ref: M/2002/0147/A41 Proposals: Rear ground floor shower room, extension to dwelling Decision: 205 Decision Date: 28-FEB-02  Ref: M/2003/0076/F Proposals: Extension to Kitchen and New Shower Room Extension to Rear of Dwelling Decision: Decision Date:  Ref: M/1989/4011	

Proposals: Improvements to dwelling

Decision: PDNOAP

Decision Date:

Ref: LA09/2022/0551/F

Proposals: Proposed two storey dwelling

Decision:

Decision Date:

Ref: M/1993/4051

Proposals: Multi-element improvements

Decision: PDNOAP

Decision Date:

### **Summary of Consultee Responses**

NI Water - Single Units West-Substantive: TBC

DFI Roads - Enniskillen Office-Substantive: TBC

DETI - Geological Survey (NI)-Substantive: TBC

NIEA-PRT LA09-2022-0551-F SA.PDF

### **Drawing Numbers and Title**

Proposed Plans      Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable

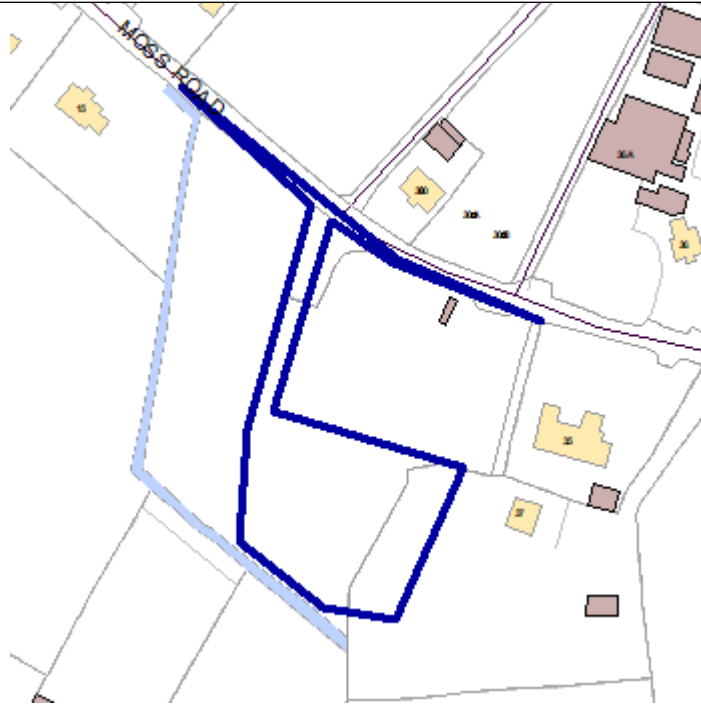


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2022/0556/O	<b>Target Date:</b> 23 June 2022
<b>Proposal:</b> Domestic dwelling and garage.	<b>Location:</b> Adjacent To 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ.
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ciara McGrath 37 Moss Road Ballymaguigan Magherafelt BT45 6LJ	<b>Agent Name and Address:</b> Paul Mallon 26 Derrychrin Road Coagh Cookstown BT80 0HJ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0556-O.pdf
Non Statutory Consultee	Rivers Agency	471191-06 Final Planning Authority reply.pdf

### Representations:

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

### Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

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

The site is located Adjacent To 37 Moss Road, Ballymaguigan, Magherafelt and is located outside the designated settlement limits of Ballymaguigan as identified in the Magherafelt Area Plan, 2015. The site is a small portion of an agricultural field and the boundaries of the site are comprised of mature vegetation and trees, which is quite dense. The eastern boundary abuts the dwelling at No 37 and the site is set back from the Moss Road. The surrounding area is predominantly rural.

## **Description of Proposal**

This application seeks outline planning permission for a dwelling and garage.

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

### **Policy Consideration**

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

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

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan, 2015
- PPS21 -Sustainable Development in the Countryside
- Planning Policy Statement 3 - Access, Movement and Parking.
- Planning Policy Statement 15 – Planning and Flood Risk

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

### **Planning History**

There is no planning history relevant to the determination of this application.

### **Representations**

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

### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the

Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

No case was made to advise what policy the dwelling and garage was to be assessed under. I contacted the agent to enquire and he suggest possibly as an infill/gap site, no further case was presented.

Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development but qualifies this by stating that “an exception will be permitted for the development of a small gap site sufficient to accommodate up to a maximum of two houses within an otherwise substantial and continuously built-up frontage provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements”. A substantial and built up frontage includes a line of three or more buildings along a road frontage without accompanying development to the rear.

The Policy further stipulates in paragraph 5.33 that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. There is one dwelling on the eastern side, No 37 Moss Road and No 36 is located to the North of No 37, however due to the siting and orientation of these dwellings, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case.

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 is for outline planning permission and details of design have not been submitted at this stage. However, the site is relatively well screened by the existing vegetation. A suitably designed dwelling house should integrate sufficiently into the 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 the area. This application is not deemed acceptable under any of the policy headings in PPS 21 and it is therefore considered a new dwelling at this location will cause a detrimental change to the rural character of this area which is contrary to CTY 14 as it will result in a suburban style build up of development when viewed with existing buildings in the area.

Planning Policy Statement 3 - Access, Movement and Parking.

The P1 submitted with the application indicated that the proposal included the construction of a new access to the public road. DFI Roads were consulted on the application and responded to say they had no objection subject to conditions.



Planning Policy Statement 15 – Planning and Flood Risk

DFI Rivers were consulted on the application and responded to say that :

FLD2 - Protection of Flood Defence and Drainage Infrastructure

The proposal is affected by an undesignated watercourse, which flows along the southern

boundary of the site. Under 6.32 of the policy it is essential that a working strip of minimum width 5m is maintained. DFI Rivers recommends that the working strip is shown on a site layout drawing. It should be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising, permitted development rights or future unapproved development by way of a planning condition. Clear access and egress should be provided at all times. The applicant should be aware that the riparian land owner is legally responsible to maintain the watercourse.

FLD3 - Development and Surface Water

Flood Maps (NI) indicate that the outlined site lies within adjacent to a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy the developer should still be advised to appoint a competent professional to carry out their own assessment of flood risk and to construct in a manner that minimises flood risk to the proposed development and elsewhere.

I contacted the agent in regards to the response from DFI Rivers and a drawing was submitted to address these 5m Maintenance strip as detailed above. (Ref: drawing No 02, dated 23.01.2022).

Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case

**Reason 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 result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s):** Siobhan Farrell

**Date:** 20 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	28 April 2022
<b>Date First Advertised</b>	10 May 2022
<b>Date Last Advertised</b>	10 May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 35 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 30 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 15 Moss Road Magherafelt Londonderry BT45 6LJ The Owner / Occupier 36A Moss Road Magherafelt Londonderry BT45 6LJ	
<b>Date of Last Neighbour Notification</b>	27 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2002/1117/O Type: O Status: APPRET  Ref: LA09/2017/0035/O Type: O Status: PG  Ref: LA09/2017/1006/F Type: F Status: PG  Ref: H/2004/1070/F Type: F Status: PG  Ref: LA09/2021/0704/F Type: F	

Status: PG

Ref: H/1992/0061

Type: F

Status: PCO

Ref: LA09/2017/0617/F

Type: F

Status: PG

Ref: H/2003/0365/F

Type: F

Status: PG

Ref: H/1997/0292

Type: O

Status: PCO

Ref: H/2004/1497/F

Type: F

Status: PG

Ref: H/1998/0679

Type: F

Status: PCO

Ref: H/2004/0669/O

Type: O

Status: PR

Ref: LA09/2022/0556/O

Type: O

Status: PCO

Ref: LA09/2017/1405/F

Type: F

Status: PCO

Ref: LA09/2016/0761/F

Type: F

Status: PR

Ref: H/2011/0360/O

Type: O

Status: PR

Ref: H/2009/0190/O  
Type: O  
Status: PG

Ref: H/2004/0708/O  
Type: O  
Status: PR

Ref: H/2006/0693/F  
Type: F  
Status: PG

Ref: LA09/2016/0197/F  
Type: F  
Status: PG

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Type: O  
Status: PCO

Ref: H/1989/0106  
Type: O  
Status: PCO

Ref: H/1999/0025  
Type: F  
Status: PCO

Ref: LA09/2018/0754/O  
Type: O  
Status: PDE

Ref: LA09/2015/0598/F  
Type: F  
Status: PR

Ref: H/2004/0714/O  
Type: O  
Status: PR

Ref: LA09/2021/0511/F  
Type: F  
Status: PCO

Ref: LA09/2017/1378/F  
Type: F

Status: PCO

Ref: LA09/2016/0635/LDE

Type: LDE

Status: PG

Ref: H/2004/0677/O

Type: O

Status: PR

Ref: H/1993/0120

Type: O

Status: PCO

Ref: H/2003/1437/O

Type: O

Status: PR

Ref: H/2002/1066/O

Type: O

Status: PR

Ref: H/2004/0354/O

Type: O

Status: PR

Ref: H/1995/0064

Type: F

Status: PCO

Ref: LA09/2017/0167/F

Type: F

Status: PG

Ref: LA09/2015/0483/F

Type: F

Status: PG

Ref: LA09/2021/0988/F

Type: F

Status: PG

Ref: H/2007/0592/F

Type: F

Status: PG

Ref: LA09/2017/1322/F

Type: F

Status: APPRET

Ref: H/1997/0583

Type: O

Status: PCO

Ref: H/1998/0004

Type: O

Status: PCO

Ref: H/1997/0036

Type: O

Status: PCO

Ref: H/1997/0414

Type: RM

Status: PCO

Ref: H/1996/0412

Type: O

Status: PCO

Ref: H/1999/0261

Type: F

Status: PCO

Ref: H/1997/0211

Type: O

Status: PCO

Ref: H/1998/0537

Type: RM

Status: PCO

Ref: H/1998/0278

Type: O

Status: PCO

Ref: H/2006/0338/F

Type: F

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Ref: H/1985/0493

Type: RM

Status: PG

Ref: LA09/2017/1224/NMC

Type: NMC

Status: APPRET

Ref: H/2001/0140/F

Type: F

Status: PG

Ref: H/1985/0492

Type: RM

Status: PG

Ref: H/2002/0467/F

Type: F

Status: APPRET

Ref: LA09/2022/0458/O

Type: O

Status: PCO

Ref: LA09/2015/0347/LDE

Type: LDE

Status: PR

Ref: LA09/2018/1561/F

Type: F

Status: PG

Ref: LA09/2021/0912/F

Type: F

Status: PG

Ref: LA09/2021/1336/O

Type: O

Status: PCO

Ref: LA09/2022/0229/F

Type: F

Status: PCO

Ref: H/2001/0902/O

Type: O

Status: PG



Ref: LA09/2018/0007/F

Type: F

Status: PG

Ref: H/1988/0227

Type: RM

Status: PCO

Ref: H/1987/0348

Type: O

Status: PCO

Ref: LA09/2017/0399/F

Type: F

Status: PG

Ref: LA09/2021/1034/F

Type: F

Status: PG

Ref: H/2004/1380/F

Type: F

Status: PG

Ref: H/2006/0922/RM

Type: RM

Status: PG

Ref: H/2004/0791/O

Type: O

Status: PG

Ref: H/1992/0281

Type: O

Status: PCO

Ref: H/1995/0410

Type: F

Status: PCO

Ref: H/1988/0429

Type: O

Status: PCO

Ref: H/1995/6038

Type: PREAPP

Status: PCO

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx  
NI Water - Single Units West-LA09-2022-0556-O.pdf  
Rivers Agency-471191-06 Final Planning Authority reply.pdf

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

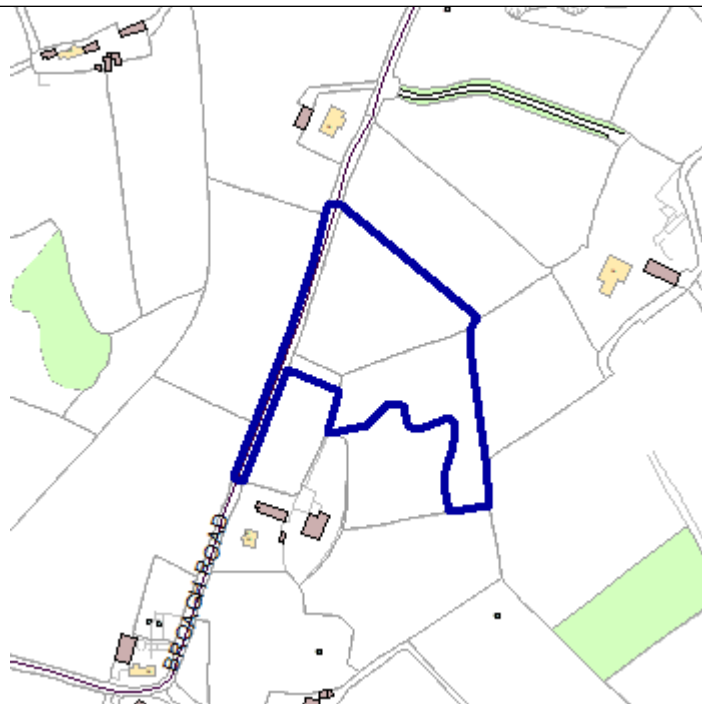


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2022/0732/O	<b>Target Date:</b> 21 September 2022
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 110M North East Of 26 Broagh Road Knockcloghrim Magherafelt BT45 8QX
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Martin McErlean 28 Broagh Road Knockloughrim Magherafelt BT45 8QX	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-0732-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0732-O.pdf
Non Statutory Consultee	DAERA - Coleraine	Consultee Response LA09-2022-0732-O (2).DOCX

### Representations:

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

### Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

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

The site is located 110M North East Of 26 Broagh Road Knockcloghrim, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large, irregular shaped agricultural field . The elevation of the site rises very gently from the roadside. The boundaries of the sight are mainly comprised of mature hedgerows with some mature trees along the south and south-west boundaries. The surrounding area is rural in character with scattered dwellings and farm holdings.

## **Description of Proposal**

This application seeks outline planning permission for a farm dwelling and garage.

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

### **Policy Consideration**

#### Planning History

There is no planning history relevant to the determination of this application.

#### Representations

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

#### Assessment

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

### Planning History

There is no planning history relevant to the determination of this application.

### Representations

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

### Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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.

PPS 21, Policy CTY1, 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)

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.

**Site at 110m NE of 26 Broagh Road, Knockloughrim**

PROJECT NO: 1108  
SCALE: 1:2000GSM  
DATE: May 2022  
DRAWN BY: PJA  
CHECKED BY: RS

Site  
 Adjacent Land

**NEWLINE ARCHITECTS**  
1. DESIGN STREET CONSULTANTS LTD.  
2. 100 WINDMILL  
3. www.newlinearchitects.ie  
4. info@newlinearchitects.ie

**REVISED:**  
NO. REVISION DATE

APPLI  
ACKN

south west of the site would not cause detrimental change or erode the rural character of the area. Therefore, this proposal is compliant with the criteria set out in policy CTY13 &14.

#### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and therefore it is recommended that permission is refused.

#### **Summary of Recommendation:**

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

##### Reason 2

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 is currently active for 6 years or more.

**Signature(s):** Siobhan Farrell

**Date:** 20 January 2023



ANNEX	
Date Valid	8 June 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 26 Broagh Road, Magherafelt Londonderry BT45 8QX The Owner / Occupier 19 Broagh Road Magherafelt Londonderry BT45 8QX	
Date of Last Neighbour Notification	28 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: H/1995/0480 Type: O Status: PCO  Ref: H/2003/0468/O Type: O Status: PG  Ref: H/2007/0518/F Type: F Status: PG  Ref: H/2004/1182/F Type: F Status: PG  Ref: H/2012/0210/F Type: F Status: PG  Ref: H/2005/0193/F Type: F	

Status: PG

Ref: LA09/2022/0732/O

Type: O

Status: PCO

Ref: H/1985/0078

Type: H13

Status: PG

Ref: H/2004/1362/O

Type: O

Status: PR

Ref: H/2005/0117/O

Type: O

Status: PG

Ref: H/2004/0214/F

Type: F

Status: PG

Ref: H/1996/0006

Type: O

Status: PCO

Ref: H/2000/0890/O

Type: O

Status: PG

Ref: H/2009/0154/F

Type: F

Status: PG

Ref: H/2009/0540/RM

Type: RM

Status: PG

Ref: H/1979/0303

Type: H13

Status: WITHDR

Ref: LA09/2016/1591/F

Type: F

Status: PG

Ref: LA09/2019/0301/F

Type: F

Status: PG

Ref: H/1993/0314

Type: O

Status: PCO

Ref: H/1995/0382

Type: RM

Status: PCO

Ref: H/1993/0174

Type: F

Status: PCO

Ref: H/1984/0049

Type: O

Status: PG

Ref: H/1984/0316

Type: F

Status: PG

Ref: H/2010/0299/F

Type: F

Status: APPRET

### **Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response LA09-2022-0732-O.DOCX

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-0732-O.pdf

DAERA - Coleraine-Consultee Response LA09-2022-0732-O (2).DOCX

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable

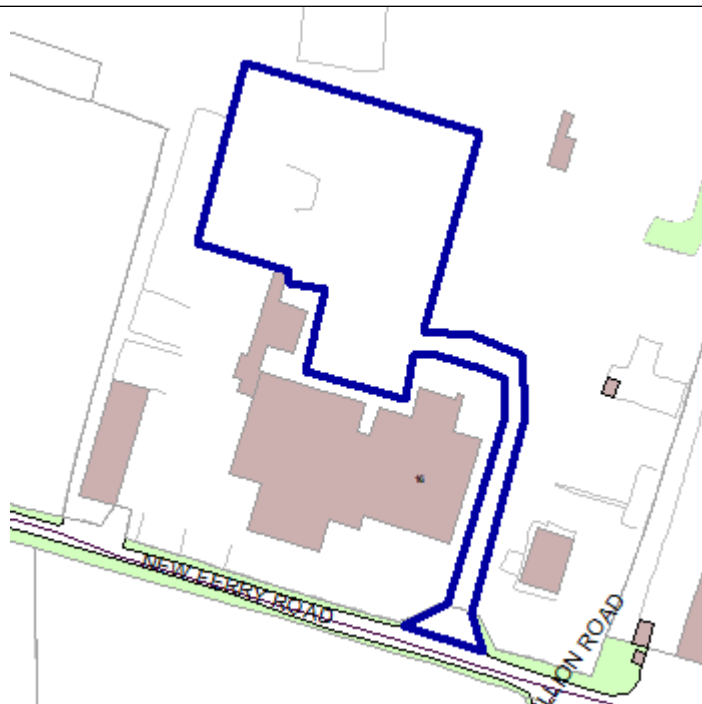


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.19
<b>Application ID:</b> LA09/2022/0739/F	<b>Target Date:</b> 22 September 2022
<b>Proposal:</b> Buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works.	<b>Location:</b> Lands Approx. 7 Metres North Of 16 New Ferry Road Bellaghy Co Derry BT45 8ND
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Bulrush Horticultural Ltd 16 New Ferry Road Bellaghy BT45 8ND	<b>Agent Name and Address:</b> Clyde Shanks Ltd 7 Exchange Place Belfast BT1 2NA
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	Rivers Agency	489888 - Final Response.pdf
Non Statutory Consultee	Environmental Health Mid Ulster Council	LA09 2022 0739 F.doc
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation blank.docx

### Representations:

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

### Summary of Issues

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

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

This site is located on Lands Approx. 7 Metres North Of 16 New Ferry Road, Bellaghy and is located outside of any designated settlement limits as defined in the Magherafelt Area Plan, 2015. The proposed site is 0.683ha in size, is located within the existing Bulrush Horticulture facility at Newferry, approximately 2.8km north east of the village of Bellaghy.

The site, which is relatively flat throughout, comprises an area of hardstanding currently used to for the storage of peat based substrates. The site is bound on all sides by extant Bulrush operations which comprise storage areas for peat and horticultural products and materials. The site is well set back from the road, to the rear of the existing buildings. The site is well screened with existing mature vegetation along the north, east and western boundaries The site is accessed via an internal access road which connects to an existing entrance to the Bulrush facility off Newferry Road.

The surrounding area is predominantly rural in character with scattered dwellings and dispersed farm holdings . An area of peatland is located immediately north of the site which is currently subject to varying degrees of extraction.

## **Description of Proposal**

This is a full application for buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works, at Bulrush Horticultural Ltd

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

### **Policy Consideration**

### **Representations**

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

### **Planning History**

H/2013/0309/F- Proposed In-vessel Composting Facility, (IVCF) for (non-hazardous)

green and organic waste, storage, access and ancillary site works, for Bulrush Horticulture Ltd. Permission granted, 20 June 2014

H/2012/0280/F- Proposed alterations to development, previously approved under planning application H/2010/0593/F (Provision of new 2 storey office premises to replace current office building), For Bulrush Horticulture Ltd. Permission granted 14 November 2012 .

H/2012/0140/F- Proposed 1MW biomass plant to replace oil fired boiler for heat production to power extant manufacturing process, for Bulrush Horticulture Ltd. Permission granted 31 August .

H/2010/0593/F – Provision of new 2 storey office premises to replace current office building for Bulrush Horticulture Ltd. Permission Granted 14th April 2011 .

H/2005/0631/F- Proposed shed cover for peat storage yard and extension to existing factory, for Bulrush Horticulture Ltd, Permission Granted 07 February 2006.

H/2001/0057/O- Proposed a lean-to storage shed for Peat, for Bulrush Peat Co Ltd, Permission Granted 20th September 2001.

## **Assessment**

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any 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.

The Magherafelt Area Plan 2015 (MAP) identifies the site as being located in the countryside within the West Lough Neagh Shores Area of High Scenic Value (AoHSV) – designation COU 1.

The policy for the control of development in Areas of High Scenic Value is contained in Policy CON 1 in Part 2 of the Plan. Policy CON 1 states:

‘Within designated Areas of High Scenic Value planning permission will not be granted to development proposals that would adversely affect the quality and character of the landscape. A Landscape Analysis must accompany development proposals in these areas to indicate the likely effects of the proposal on the landscape. Planting and retention of indigenous tree species must be an integral part of these proposals and the site must be large enough to accommodate any mitigation measures identified. Where



feasible the reuse of traditional buildings will be required.'

The proposal is for a buildings located within the Bulrush Horticulture site which is located to visually link and cluster with the existing buildings on the site. The site is set back approx. 100m from the public road and is considerably well screened by mature hedgerows, the existing Bulrush buildings and concrete material storage clamps. The agent confirmed that there are no traditional buildings available for reuse within the site. I believe that the proposal will not therefore have an adverse impact on the quality and character of the local landscape and therefore complies with Policy CON 1.

#### **PPS4 – Planning and Economic Development**

Policy PED 3 'Expansion of an Established Economic Development Use in the Countryside, policy PED 3 is a material consideration. PPS4 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. Proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. Where it is demonstrated that this is not possible, new buildings may be approved provided they are in proportion to the existing building(s) and will integrate as part of the overall development.

Any extension or new building should respect the scale, design and materials of the original building(s) on the site and any historic or architectural interest the original property may have.

A proposal for the major expansion of an existing industrial enterprise that would not meet the above policy provisions will only be permitted in exceptional circumstances where it is demonstrated that:

- relocation of the enterprise is not possible for particular operational or employment reasons;
- the proposal would make a significant contribution to the local economy; and
- the development would not undermine rural character.

In all cases, measures to aid integration into the landscape will be required for both the extension and the existing site.'

The scale of the buildings proposed is no greater than buildings currently on site. The proposal is to facilitate the production of an alternative horticultural substrate to peat (produced on the wider site) and is in keeping with the established economic activities of the site. The site is located within the existing Bulrush Horticulture compound and there is no increase in the site area of the organisation. I believe that the proposal will not harm or have an adverse impact on the rural character of the area and will integrate into the overall site.

The agent has confirmed that are no existing buildings on site capable of housing the

wood and coco fibre plant .will integrate as part of the overall development.

The proposed buildings have been designed using materials similar to the existing buildings on the site.

There are no buildings in the area that have any historic or architectural interest.

The proposal is not considered to be a major expansion as it is located within the curtilage of the existing enterprise. Therefore, I believe that the proposal is in compliance with the criteria set out in Ped 3 of PPS 4.

#### **PPS 4 Planning and Economic Development Policy PED 9 -General Criteria for Economic Development**

A proposal for economic development use, in addition to the other policy provisions of PPS 4, will be required to meet all the criteria of Policy Ped 9:

The proposed buildings are considered to be compatible with surrounding land use, as they are to be used to house plant which is designed to produce a horticultural substrate (wood and coco fibre) on a site which currently produces horticultural substrates from peat. I do not any reason to believe that the proposal will have an adverse effect on surrounding properties. A Noise Impact Assessment (NIA) was submitted and Environmental Health were consulted on the application and responded to say that ;

An Acoustic report entitled “*Noise Impact Assessment Bulrush Horticulture Ltd., Bellaghy Report No. RP001N 2022093*” dated 25<sup>th</sup> May 2022 has been submitted in support of this application.

The report concludes in Section 7.0

*“The predicted noise levels at each of the nearest sensitive receptors were assessed against BS4142:2014 limits and WHO recommended noise levels. It was found that operational noise from the proposed development is likely to have a low impact during the daytime period. For the reasons outlined within this report, Irwin Carr Consulting is of the opinion that noise generated by the proposed development should not adversely impact neighbouring third-party properties (provided the recommended mitigation proposal is adhered to)”*

This conclusion is based on a number of assumptions

- The noise generated internally within the workshops not exceeding 85dB(A) (façade level)
- work during daytime hours only
- Roller shutter doors providing a sound reduction index of 22dB(A)
- The building fabric providing at least a sound reduction index of 22dB(A)

Hours of operation

Section 2 of the noise report states,

*“The proposed development will operate in line with the current sites working hours daytime hours only”.*

Unfortunately, specific hours of operation were not specified within the noise report.

In view of this and the fact that the background noise levels normally decline at night as a consequence of reduced traffic levels and industry, there is a likelihood of night-time noise disturbance if the applicant were permitted to operate at night. MUDCEHD therefore recommend that the following condition restricting the hours of operation be attached to any planning permission granted:

***“The development site shall not remain open and, plant and equipment shall not be operated. Deliveries by commercial vehicles shall not be made to and from the site:***

- ***At any time on Sunday***
- ***Prior to 07.00 hours and after 19.00 hours Monday to Friday***
- ***Prior to 08.00 hours and after 13.00 hours on Saturday”***

#### Sound Insulation to fabric of building

The acoustic report indicates that walls are to be constructed *“with a single skin steel cladding envelope from ground to ridge height.”* It is stated on Page 11 that the structure will provide a weighted sound reduction index of 22 dB(A) including roller shutter doors when in the closed position.

In order to reduce the likelihood of loss to residential amenity as a result of noise, it is recommended that the following conditions be attached to any planning permission granted

***“The walls, roof and roller door structures of the building permitted by this permission shall be installed and maintained in such a condition that ensures they are capable of achieving a weighted sound reduction index of at least 22dB”***

***“Roller shutter doors as depicted in Appendix B Noise Impact Assessment Bulrush Horticulture Ltd., Bellaghy Report No. RP001N 2022093” dated 25<sup>th</sup> May 2022 shall remain in the closed position except for access and egress”***

***“All fork lift trucks operating within the development site shall be fitted with white noise (full spectrum) reversing alarms “.***

The proposed buildings and plant will be sited on existing concrete hardstanding within an area which is currently used to for the storage of peat based substrates and it is not expected to have any adverse effect on features of natural or built heritage. The nearest

designated site, Ballymacombs More Area of Special Scientific Interest (ASSI) is located approx. 240 metres north east of the site. The proposal is not considered to create any emissions that could be potentially harmful to the Holocene peat and related stratigraphy for which the ASSI is designated. There are no built heritage features within the site or the immediate surroundings.

The site is identified by the DfI Rivers Flood Map as being located in an area at risk of fluvial flooding. A Flood Risk Assessment was submitted with the application and DfI Rivers were consulted and responded to say that 'DfI Rivers has reviewed the Flood Risk Assessment (FRA) by Flood Risk Consulting and comments as follows;

'The FRA has provided a detailed river model of the Ballyscullion West Watercourse which demonstrates that the proposed site is not located within the 1% AEP fluvial floodplain for this watercourse. The 1% AEP fluvial flood level provided for this watercourse is 14.41mOD.

The FRA has also provided information on the highest recorded level for the Lower Bann watercourse at the nearby Newferry Road gauging station which is 13.255mOD. The proposed site is located at an appropriate freeboard above this level.

Due to the near location to the flood plain the developer should be advised that for design purposes all finished floor levels should be placed at a minimum of 600mm above the 1% AEP

fluvial flood level of 14.41mOD. Therefore, DfI Rivers, while not being responsible for the preparation of the Assessment, accepts its logic and has no reason to disagree with its conclusions.' However, further issues were raised regarding a culverted water course which will be dealt with later in this report.

The proposal is not anticipated to produce any effluent. Any water used in the process to dampen the material is to be recycled within the process. According to the agent, NIEA currently sample the watercourses in and around the wider site and to date no impurities have been recorded.

DFI Roads were consulted on the application and responded to say that they did not offer any objection. The site is accessed via an established entrance from Newferry Road and adequate access arrangements, parking and manoeuvring areas are provided within the site. Given the location of the site and the nature of the activities a movement pattern is not considered to be necessary.

The site layout has been designed with a good quality and standard of finish for buildings of an industrial nature. No landscaping has been submitted but the proposal is well screened from public view points by the existing buildings and infrastructure and integrates within the site compound.

The Bulrush site is securely locked outside of operating hours and the buildings are alarmed.

In consideration of the above, above policy consideration, the proposal is considered to

be compliant with Policy PED 9 of PPS 4.

### **PPS15 Planning and Flood Risk**

#### **PPS15 Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains**

The site is identified by the DfI Flood Map as being located in an area at risk of fluvial flooding. A Flood Risk Assessment was submitted with the application and DFI Rivers were consulted and responded to say that

‘DfI Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions.’

#### **PPS15 Policy FLD 2 Protection of Flood Defence and Drainage Infrastructure**

An undesignated watercourse traverses the site. Under 6.32 of the policy a 5m maintenance

strip is required. Drawing ‘SITE\_LAYOUT\_PLAN\_A1’ indicates that the proposals may be located on the line of a culverted watercourse. Under 6.33 of the policy there is a general presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance or other necessary operations. The agent confirmed that this was the case and a drawing was requested to show the extent of the culverted watercourse (drawing No 06, date stamped 14<sup>th</sup> December 2022). From this we can see that the proposed building will be constructed over a significant line of the culverted watercourse. Therefore the proposal is contrary to Policy FLS 2 of PPS 15.

#### **PPS15 Policy FLD 4 Artificial Modification of Watercourses**

Under FLD 4 of Planning Policy Statement 15, artificial modification of a watercourse is normally not permitted unless it is necessary to provide access to a development site or for engineering reasons. This is a matter for the planning authority. The culverting of the watercourse on this application site has been done prior to this application being submitted.

#### **Conclusion**

Refusal is therefore recommended as the proposal is contrary to Policy FLD 2 of PPS 15.

#### **Summary of Recommendation:**

Refuse is recommended

## Refusal Reasons

### Reason 1

The proposal is contrary to the criteria set out in Policy FLD 2 of PPS 15, in that the proposed building would be constructed over line of the culverted watercourse.

### Reason 2

The proposal is contrary to FLD 4 of PPS 15, in that the watercourse has been artificially modified prior to the submission of this application.

**Signature(s):** Siobhan Farrell

**Date:** 23 January 2023

ANNEX	
Date Valid	9 June 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 16 New Ferry Road Bellaghy Co Derry BT45 8ND	
Date of Last Neighbour Notification	5 July 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2018/0365/DC Proposals: Discharge of condition No.4 of planning permission H/2013/0309/F Decision: AL Decision Date: 07-JUN-18  Ref: H/1992/0228 Proposals: PEAT EXTRACTION(MILLED METHOD) Decision: PG Decision Date:  Ref: H/1973/0136 Proposals: CHALET BUNGALOW Decision: PG Decision Date:  Ref: H/1985/0299 Proposals: COFFEE BAR EXTENSION TO SHOP AND STORE Decision: PG Decision Date:  Ref: H/2003/0252/O Proposals: Site of dwelling and garage.	

Decision: PR  
Decision Date: 29-OCT-05

Ref: H/1979/0252  
Proposals: EXTRACTION AND PROCESSING OF PEAT AND ASSOCIATED BUILDINGS  
Decision: PG  
Decision Date:

Ref: H/2010/0593/F  
Proposals: Provision of new 2 storey office premises to replace current office building  
Decision: PG  
Decision Date: 18-APR-11

Ref: H/2005/0631/F  
Proposals: Shed Cover For Peat Storage Yard and Extension to Existing Factory.  
Decision: PG  
Decision Date: 13-FEB-06

Ref: H/2012/0280/F  
Proposals: Alterations to development previously approved under planning application H/2010/0593/F. Provision of new 2 storey office premises to replace current office building  
Decision: PG  
Decision Date: 19-NOV-12

Ref: H/1993/0252  
Proposals: EXT TO PEAT PROCESSING PLANT & PROVISION OF OFFICE ACCOMMODATION WITHIN EXISTING PLANT  
Decision: PG  
Decision Date:

Ref: H/2001/0057/O  
Proposals: Site Of Lean-To Storage Shed For Peat.  
Decision: PG  
Decision Date: 26-SEP-01

Ref: H/2012/0140/F  
Proposals: Proposed 1MW Biomass plant to replace oil fired boiler for heat production to power extant manufacturing process.  
Decision: PG  
Decision Date: 03-SEP-12

Ref: H/2013/0309/F  
Proposals: Proposed In-vessel Composting Facility (IVCF) for (non-hazardous) green and organic waste, storage, access and ancillary site works.



Decision: PG  
Decision Date: 23-JUN-14

Ref: H/2011/0405/DETEIA

Proposals: EIA screening and scoping request for in-vessel composting facility (IVCF) at lands east of Bulrush Horticulture Ltd, Newferry Road, Bellaghy under the Planning (EIA Regulations (NI) 1999 - Regulation 6 (1) (a) and (b) request.

Decision:  
Decision Date:

Ref: LA09/2022/0739/F

Proposals: Buildings to house proposed wood and coco fibre plant, storage bay, chip feed bin, access (insitu) and ancillary site works.

Decision:  
Decision Date:

Ref: H/1991/0500

Proposals: 2 NO UNITS FOR TOURIST ACCOMMODATION

Decision: WITHDR  
Decision Date:

Ref: H/2007/0482/F

Proposals: Erection of 33 Kv electricity substation enclosed by a 2.5m high galvanised steel Lochrin fence. Inside the area will be poles and electrical switchgear. A control room will be built for metering.

Decision: PG  
Decision Date: 19-OCT-07

Ref: H/1981/0357

Proposals: PETROL FILLING STATION

Decision: PG  
Decision Date:

Ref: H/2004/0870/O

Proposals: Site of Dwelling and Garage.

Decision:  
Decision Date:

### **Summary of Consultee Responses**

Rivers Agency-489888 - Final Response.pdf  
Environmental Health Mid Ulster Council-LA09 2022 0739 F.doc  
DFI Roads - Enniskillen Office-Roads Consultation blank.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 02

Existing Site Survey Plan Ref: 03

Elevations and Floor Plans Plan Ref: 04

Proposed Elevations Plan Ref: 05

Miscellaneous Plan Ref: Flood Risk Assessment

Miscellaneous Plan Ref: Noise Impact Assessment

**Notification to Department (if relevant)**

Not Applicable

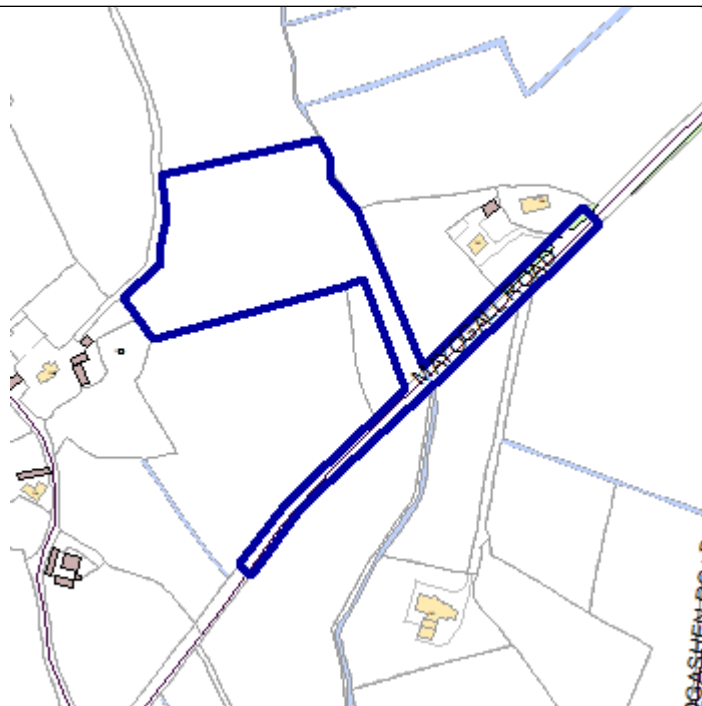


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2022/1061/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> dwelling and garage under CTY 10	<b>Location:</b> Lands 160 Metres North East Of 136 Mayogall Road Clady BT44 8LU
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Colm McNally 18 Hawthorn Crescent Maghera	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-0670-F.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	Rivers Agency	576597 -Final Response.pdf
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-1061-O.DOCX

### Representations:

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

### Summary of Issues

No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.

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

The site is located on lands 160 Metres North East Of 136 Mayogall Road, Clady and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is a large portion of an agricultural field. The elevation of the site is relatively flat adjacent to the roadside then as you move inwards it begins to rise. The boundaries of the site are mainly comprised of mature low level hedgerows, which is quite sparse with the odd tree dotted mainly along the eastern boundary towards the roadside. The surrounding area is rural in character with scattered dwellings and farm holdings.

## **Description of Proposal**

This application seeks outline planning permission for a farm dwelling and garage under CTY 10.

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

### **Policy Consideration**

#### Planning History

LA09/2017/0063/O-Proposed dwelling and domestic garage / store based on policy CTY 10 - dwelling on a farm, 40MTS North East Of No 136 Mayogall Road, Knockloughrim, for Mr Brendan Henry, Permission Granted 02.05.2017.

#### Representations

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

#### Assessment

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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

PPS21 -Sustainable Development in the Countryside

### PPS 3 Access, Movement and Parking

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 remain applicable in terms of assessing the acceptability of the proposal.

#### Assessment

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is dwellings on a farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

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.

PPS 21, Policy CTY1, 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)

With regard to (a) the applicant has provided details surrounding the farm

business ID. DAERA were consulted and responded to say that the farm business ID provided was not active and established and that the land was associated with another farm business ID. No case has been presented to prove that the farm business has been active or established for 6 or more years. Therefore the proposal fails to meet the criteria of this policy.

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.

With respect to (c), the proposed site is a large portion of an agricultural field. There are no establish group of farm buildings associated with the site and no case has been presented to confirm any buildings on the farm. Therefore the application fails to meet this policy test.

The P1 form indicates that the proposal includes the alteration of an existing access

to the public road. DfI Roads were consulted on the application, and they responded to say that the access is unto a Protected Route A42 Moyagall Road. PPS3 AMP3 Access to a Protected Route is applicable. The existing access mentioned in the P1 is considered to be a field entrance and therefore not a vehicle access as specified in PPS3. It is contrary to Policy PPS3 AMP3 to create new accesses onto a Protected Route. Third party lands are also required to create the 2.4 x 160 metre sight splays in both directions. Control of the sightlines has not been demonstrated. The sightlines should also be tangential to the curve as per DCAN 15 Fig. 2. The control of sightlines has not been demonstrated therefore DfI Roads recommend a refusal.

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 is for outline planning permission and details of design have not been submitted at this stage. However, while some of the dwellings close to the site are prominent they link and cluster with their associated farm buildings. Given the lack of adequate screening and the fact that there are no farm buildings to visually link or cluster with, associated with the site and the farm business ID, I believe that a dwelling on this site would be visually prominent and would fail to integrate into the 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 the area. In my opinion, a dwelling located on the proposed site would cause detrimental change or further erode the rural character of the area. Therefore, this proposal is contrary to the criteria set out in policy CTY13 &14.

### Conclusion

On the basis of this assessment, the proposal does not comply with the policy requirements of the SPPS and PPS21 and PPS3, therefore it is recommended that permission is refused.

### **Summary of Recommendation:**

Refuse is recommended

### Refusal Reasons

#### Reason 1

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location.

#### Reason 2

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 is currently active or established for 6 years or more and there are no establish group of farm buildings associated with the site and no case has been presented to confirm any buildings on the farm.

#### Reason 3

The proposal is Contrary to Policies CTY 13 and 14 of Planning Policy Statement 21, Sustainable development in the Countryside in that the lack of adequate screening and the fact that there are no farm buildings to visually link or cluster with, associated with the site and the farm business ID, a dwelling on this site would be visually prominent and would fail to integrate into the landscape and would cause detrimental change or further erode the rural character of the area

#### Reason 4

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

#### Reason 5

The proposal is contrary to Planning Policy Statement 3, Access, Movement and



Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it would not be possible within the application site to provide an access with visibility splays of 2.4 metres x 160 metres, in accordance with the standards contained in the Department's Development Control Advice Note 15.

**Signature(s):** Siobhan Farrell

**Date:** 23 January 2023

ANNEX	
<b>Date Valid</b>	24 June 2022
<b>Date First Advertised</b>	5 July 2022
<b>Date Last Advertised</b>	5 July 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 136A Mayogall Road Clady Londonderry BT44 8LU The Owner / Occupier 144 Mayogall Road Clady Londonderry BT44 8LU The Owner / Occupier 142 Mayogall Road Clady Londonderry BT44 8LU	
<b>Date of Last Neighbour Notification</b>	1 August 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2009/0566/F Proposals: Proposed replacement dwelling and attached garage to supersede planning approval H/2006/0039/O Decision: PG Decision Date: 19-NOV-09  Ref: H/1974/0024 Proposals: 11 KV O./H LINE (C.2860) Decision: PG Decision Date:  Ref: LA09/2020/0595/O Proposals: Proposed single storey granny flat annex to existing dwelling in accordance with Policy CTY 6 - personal and domestic circumstances Decision: PG Decision Date: 15-APR-21  Ref: H/1976/0308 Proposals: HOUSE WITH GARAGE Decision: PG	

Decision Date:

Ref: H/1990/0285

Proposals: GARAGE

Decision: PG

Decision Date:

Ref: LA09/2017/1312/RM

Proposals: Storey and a half dwelling

Decision: PG

Decision Date: 04-JAN-18

Ref: LA09/2017/0063/O

Proposals: Proposed dwelling and domestic garage / store based on policy CTY 10 - dwelling on a farm

Decision: PG

Decision Date: 12-MAY-17

Ref: H/1981/0001

Proposals: SITE OF BUNGALOW

Decision: WITHDR

Decision Date:

Ref: H/2006/0039/O

Proposals: Site of Dwelling & Garage (Revised Access Detail)

Decision: PG

Decision Date: 27-NOV-08

Ref: H/1995/0639

Proposals: 11 KV O/H LINE BM3152/94

Decision: PG

Decision Date:

Ref: H/2004/1323/O

Proposals: Site of Dwelling and Garage

Decision:

Decision Date:

Ref: H/2008/0219/F

Proposals: Proposed dwelling & garage

Decision: PG

Decision Date: 17-NOV-08

Ref: H/2015/0023/O

Proposals: Replacement Dwelling and Garage

Decision: PG

Decision Date: 16-SEP-15

Ref: LA09/2017/1684/F

Proposals: Proposed storey and a half replacement dwelling with attached dependant annex

Decision: PG

Decision Date: 14-MAR-18

Ref: H/2004/0578/O

Proposals: Site of replacement dwelling and garage.

Decision: PG

Decision Date: 24-MAR-05

Ref: H/2003/0149/A41

Proposals: Sunroom.

Decision: 205

Decision Date: 20-MAR-03

Ref: H/1980/0301

Proposals: EXTENSIONS TO BUNGALOW

Decision: PG

Decision Date:

Ref: H/1992/0503

Proposals: SITE OF REPLACEMENT DWELLING

Decision: PR

Decision Date:

Ref: LA09/2022/1061/O

Proposals: dwelling and garage under CTY 10

Decision:

Decision Date:

Ref: H/1995/6109

Proposals: PETROL FILLING STATION MAYOGALL ROAD PORTGLENONE

Decision: QL

Decision Date:

Ref: LA09/2017/1288/O

Proposals: Proposed storey and a half dwelling

Decision:

Decision Date:

**Summary of Consultee Responses**

DAERA - Coleraine-Consultee Response - LA09-2022-0670-F.DOCX  
DFI Roads - Enniskillen Office-Outline resp.docx  
Rivers Agency-576597 -Final Response.pdf  
DAERA - Coleraine-Consultee Response - LA09-2022-1061-O.DOCX

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2022/1062/O	<b>Target Date:</b> 7 October 2022
<b>Proposal:</b> Proposed dwelling and garage within a cluster.	<b>Location:</b> 95M South Of No 4 Drumgarrell Road Cookstown BT80 8TA
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Ryan O'Neill 68 Drumconuis Road Coagh BT80 0HF	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

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

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

The proposal is considered to fail on Policy CTY 2a of PPS 21 and at the time of writing, two objections have been recieved. The details of these objections will be discussed later in the report.

### Characteristics of the Site and Area

The site is located at lands located approx 95m South of No.4 Drumgarrell Road, Cookstown. The red line of the site includes a triangular shed roadside site and the visibility splays. The site is located at the junction of Drumgarrell Road and fronts onto Killybearn Road also. The site is described as agricultural and appeared overgrown in parts at the site visit. There is existing hedging and mature trees along most of the site boundaries. The surrounding area has a number of existing dwellings within close proximity, mostly to the north of the site, however overall the area still appears rural in nature. There is a shooting range located approx 320m as the crow flies NE of the site as noted on the site location plan.

## **Description of Proposal**

Outline planning permission is sought for a proposed dwelling and garage within a cluster.

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

### **Policy Consideration**

#### Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 8 Killybearn Road, 4 and 4a Drumgarrell Road. At the time of writing, two third party objections were received. The main issues raised within objections were:

- Filling of land/Contamination issues at site
- New access created
- Fails to meet with clustering policy and other policies within PPS 21
- Ownership of red line

Two objections have been received in relation to the proposal, the first being from Les Ross Planning on behalf of a local landowner and the second being from the owner of 4a Drumgarrell Road. With relation to the raising of ground levels by way of deposition and the access – there was a recent enforcement case (LA09/2022/0035/CA) which recently dealt with these matters. I am in agreement that the proposal fails to meet with clustering policy as held within PPS 21. The policies for CTY 2a, CTY 13 and CTY 14 are discussed later in this report alongside how we feel this proposal is contrary to a number of the criterion held within each of these policies. With regards to the red line, it was brought to our attention that the wrong certificate was filled in on the P1 form. The agent was made aware and noted that the applicants mother was in ownership of the lands. The agent was to provide an amended certificate clarifying this information, however this has not been received to date. Given that the principle of development at this site is not considered to have been met, I am content that the application is still presented to the committee at this time. If further discussions are to take place surrounding the application, this information should be received and further clarification surrounding the red line of the site may be requested.

#### Planning History

There is not considered to be any recent relevant planning history associated with this site, other than the recent enforcement case (LA09/2022/0035/CA) aforementioned in relation to the unauthorised access, filling of land and clearance of site.



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

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

The Cookstown Area Plan 2010 identify the site as being outside any defined settlement limits and there are no other designations or zonings within the Plan.

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

This proposal is for a new dwelling and garage. The agent has referred to the clustering policy on the site location plan, indicating a focal point and a cluster of development. A possible farming case was not explored given that this appeared to be the only lands within their ownership on the site location plan. The agent was emailed originally on 3/11/22 with a follow up email on 24/11/22 advising them of our group discussion, noting that we did not feel it met with the policy criterion of CTY 2a. No further justification was received from the agent. A further email was sent on 5/1/23, referring to the incorrect certificate which was filled in on the P1 form which was raised by our enforcement team who had carried out a land registry check on the lands. The agent has since clarified by email that the land has been transferred from the mother to the son (applicant). No further checks were carried out given that we do not feel the principle of development is met at this site.

In line with planning policy held within CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided 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. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. Although there is a number of existing dwellings and associated outbuildings, we are not content that the cluster appears as a visual entity in the local landscape. The third criterion notes that the cluster should be associated with a focal point such as a social/community building/facility or is located at a crossroads. I am not convinced that there is anything which would be considered as a focal point in close proximity to the site and thus the proposal fails on this criterion. The agent has referred to a shooting range on the site location plan, however it is considered this is too far removed from the site and there is considerable distance between the two. The identified site is not bounded on any side by development and it is my consideration that the proposed development could not be absorbed into the existing cluster and would significantly altering the existing character or adversely impacting on the residential amenity. There would be sufficient separation distance between the site and neighbouring properties to avoid any issues such as privacy or overlooking concerns.

Assessing the proposal against CTY 8 – Ribbon development would also raise concern that allowing this proposal would extend an existing ribbon of development along Killybearn Road and as such would also be contrary to the policy criterion held within CTY 8.

It is also necessary for the proposal to be considered against the requirements of CTY 13 and

CTY 14 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. The proposed site has some degree of enclosure given the existing hedging which surrounds the site and therefore would not be relying solely on new landscaping. Although the proposed dwelling may not be prominent due to being sited at road level, there will be critical views of the site from the public road on approach especially along the Killybearn Road. The proposed dwelling would extend the built form and will therefore extend a ribbon of development at this location, contrary to both CTY 8 and CTY 14. As such, the proposal is considered to be contrary to some of the policy criterion held within CTY 13 and CTY 14 and as such refusal is recommended.

Having considered all of the above and noting that the proposed site is not within an identifiable cluster of development and does not have a focal point relating to the site thus contrary to policy, it is my consideration that the application should be refused.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

#### **Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

#### **Reason 4**

The proposal is contrary to Policy CTY 8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Killybearn Road.

**Signature(s):** Sarah Duggan

**Date:** 24 January 2023

ANNEX	
Date Valid	24 June 2022
Date First Advertised	5 July 2022
Date Last Advertised	5 July 2022
<b>Details of Neighbour Notification</b> (all addresses)  The Owner / Occupier 8 Killybearn Road Cookstown Londonderry BT80 8SZ The Owner / Occupier 4 Drumgarrell Road Cookstown Tyrone BT80 8TA	
Date of Last Neighbour Notification	1 August 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2019/0120/F Proposals: Retention of extension to dwelling to facilitate care of dependant relative Decision: PG Decision Date: 07-AUG-19  Ref: I/1974/0291 Proposals: ERECTION OF FARM SUBSIDY DWELLING Decision: PG Decision Date:  Ref: I/1977/0290 Proposals: RETIREMENT BUNGALOW Decision: PR Decision Date:  Ref: I/1974/029101 Proposals: ERECTION OF NON-SUBSIDY BUNGALOW Decision: PG Decision Date:	

Ref: I/1977/0119  
Proposals: ERECTION OF GARAGE AND STORE  
Decision: PG  
Decision Date:

Ref: LA09/2019/1076/F  
Proposals: Proposed side extension to dwelling  
Decision: PG  
Decision Date: 26-SEP-19

Ref: I/2003/0395/O  
Proposals: Proposed dwelling and garage  
Decision: PG  
Decision Date: 09-JUL-03

Ref: LA09/2022/1062/O  
Proposals: Proposed dwelling ☐ garage within a cluster.  
Decision:  
Decision Date:

Ref: I/2008/0223/F  
Proposals: Proposed General purpose farm shed & shelter for ponies.  
Decision:  
Decision Date:

Ref: I/1993/0112  
Proposals: Site of dwelling  
Decision: PR  
Decision Date:

Ref: I/1982/0001  
Proposals: DWELLING HOUSE  
Decision: PG  
Decision Date:

Ref: I/1996/0052  
Proposals: Dwelling  
Decision: PR  
Decision Date:

Ref: I/2002/0614/O  
Proposals: Dwelling  
Decision: PR  
Decision Date: 11-MAR-03

Ref: I/2003/0763/RM

Proposals: Proposed dwelling and garage

Decision: PG

Decision Date: 15-OCT-03

Ref: I/2004/0896/O

Proposals: Construct a dwelling

Decision: PR

Decision Date: 19-DEC-05

Ref: I/1985/020401

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1985/0204

Proposals: BUNGALOW

Decision: PG

Decision Date:

Ref: I/1987/0345

Proposals: SITE OF DWELLING

Decision: PR

Decision Date:

Ref: I/2006/0044/O

Proposals: Proposed site for dwelling

Decision: PR

Decision Date: 25-SEP-06

Ref: I/1989/0099

Proposals: Improvements to Dwelling

Decision: PG

Decision Date:

Ref: I/1996/0136

Proposals: Extension to Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/0124/LDE

Proposals: Building, car parking and access and use of same for counselling rooms and training office

Decision: PG

Decision Date: 17-OCT-19

Ref: I/1999/0680/O

Proposals: Dwelling

Decision:

Decision Date:

Ref: I/2005/0555/F

Proposals: Proposed extension & improvements

Decision: PG

Decision Date: 22-OCT-05

Ref: I/1974/008201

Proposals: ERECTION OF FARM DWELLING

Decision: PG

Decision Date:

Ref: I/1974/0082

Proposals: ERECTION OF FARM BUNGALOW

Decision: PG

Decision Date:

Ref: I/2000/0443/F

Proposals: Dwelling

Decision: PG

Decision Date: 07-SEP-00

Ref: I/1987/0177

Proposals: DOMESTIC GENERAL PURPOSE STORE AND SNOOKER ROOM

Decision: PG

Decision Date:

Ref: I/1982/0307

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

Ref: I/1982/030701

Proposals: ERECTION OF BUNGALOW

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

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

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



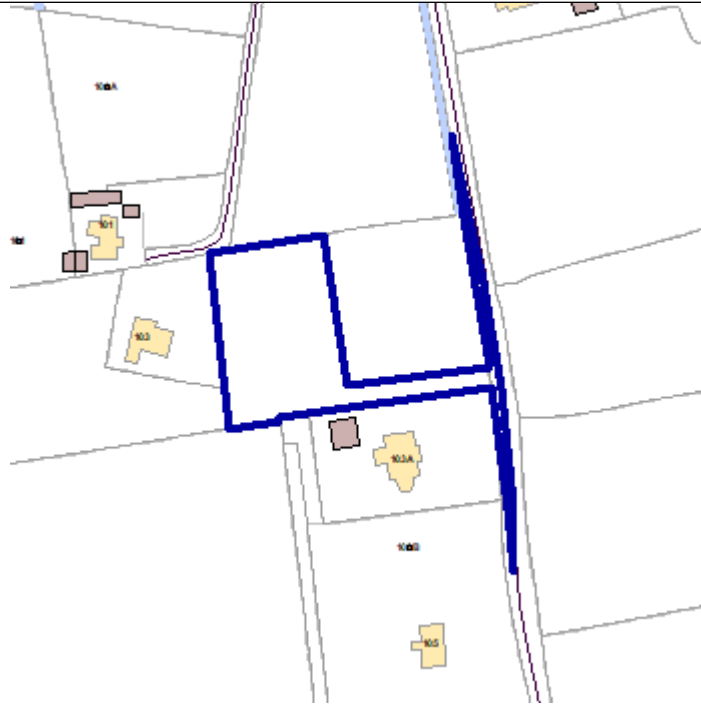


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2022/1326/O	<b>Target Date:</b> 14 December 2022
<b>Proposal:</b> New Private Dwelling and Detached Garage	<b>Location:</b> Lands 45M South-east Of No.101 Drummurrer Lane Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Michael Quinn 11A Drummurrer Lane Coalisland BT71 4QJ	<b>Agent Name and Address:</b> Clarman Ltd Unit 1 33 Dungannon Road Coalisland BT71 4HP
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.doc Roads outline.docx
Statutory Consultee	Rivers Agency	745049 - Final Response.pdf
Statutory Consultee	NI Water - Single Units West	LA09-2022-1326-O.pdf

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	4
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

There are 4 objections from local residents and this proposal fails to comply with PPS 21.

## Characteristics of the Site and Area

This application site occupies a parcel of land approximately 45 metres South East of No 101 Drummurrer Lane, Coalisland. It is a rectangular shaped site which sits to the rear of a flat agricultural field and is accessed via an existing laneway. This lane sits to the south of Drummurrer Lane and currently serves 3 dwellings. The northern, southern and western boundaries are all hedgerow with the western boundary undefined.

The settlement of Clonoe sits approximately 2 kilometres to the north east of this site and the village of Killeen is 2.5 kilometres to the north. This site is undefined in the Dungannon and South Tyrone Area Plan (DSTAP) as it lies in the rural countryside and it sits just over 2 kilometres west of the shore of Lough Neagh. The surrounding area is mostly rural but it has come under significant pressure for residential development with a scattering of single dwellings throughout the area.



## Planning History

There is no planning history on this application site.

## **Representations and Consultations**

DfI Roads were consulted and have no objection to this application subject to the provision of visibility splays of 2.4 metres by 33 metres in both directions be attached to any permission. They have stated the existing laneway needs to be widened to 4.1 metres for the first 10 metres from the junction with the main priority road which would necessitate control of third party land. Also hedge and tree removal is also required in both directions which again would require third party lands.

The red line as submitted on this application as well as the blue land and potentially the Certificate signed in Q 27 on the P1 form may not allow for the requirements as identified by DfI Roads. However, clarification/amendments regarding these comments were not sought as it is my opinion there is no policy whereby to grant permission for a dwelling on this site and refusal is recommended.

DfI Rivers were consulted due to the proximity of flooding to the site, less than 100 metres to the north of the site in a different field. This site is not within an area affected by flooding and they have no objections about development on this site.

NI Water have stated there is no public watermain within 20 metres of this site however an extension of the existing water supply network may be possible and they have no objections.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas 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). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

This application was advertised in the local press in line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 and 4 neighbouring residents were notified about this application.

A total of 4 individual objections from neighbouring properties have been submitted in regards to this application highlighting a number of concerns with the proposal which they state are not in compliance with CTY 2a, CTY 8 and CTY 14 in PPS 21.

- There is no visual entity or focal point which may create a cluster and therefore it cannot “round off an existing cluster” as no cluster exists.

- The existing buildings are separate individual dwellings with individual identities which access onto 2 different lanes.
- No enclosure on the site.
- Add to ribbon of development resulting in build-up and overdevelopment.

## **Description of Proposal**

This application seeks full planning permission for a dwelling and detached garage on lands 45 metres South East of No 101 Drummurrer Lane, Coalisland.

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

### **Policy Consideration**

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

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 and the Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS 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 retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

As the site lies within the countryside, PPS 21 is the relevant policy as it has been retained and it is this policy which this application will be assessed under. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and that 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'.

Policy CTY1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples are set out in CTY 1 detailing different cases which would allow for planning permission in the countryside and the agent has referred to a cluster in the information submitted. Planning permission will be granted for a dwelling at an existing cluster under Policy CTY 2a where a list of 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;

As can be seen from the drawing below which was included in the information submitted by the agent, there are a number of dwellings to the west of this application site and although it only shows the one dwelling to the south, there are another two beyond this. The dwelling in the north west of the illustration is recently built and was granted permission as a farm dwelling in association with the farm holding to the south at No 101, and therefore is part of an existing farm holding. I agree with the objectors in that there is no recognised “cluster” for which a dwelling could be part of and therefore this proposal fails this criterion.



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

I would disagree with the “cluster” the agent refers to or that it would appear as a visual entity in the local landscape. The grouping of dwellings referred to by the agent are

accessed off 3 separate lanes and they appear as separate entities on the ground. As stated above, the buildings in this vicinity do not together comprise a cluster, instead they are a number of individual dwellings, accessed of 3 separate laneways.

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

There is no such focal point anywhere near this grouping of dwellings, nor is there a crossroads nearby where these said dwellings could be configured around.

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

Three of the site's boundaries are vegetated and therefore do provide a certain degree of enclosure. However I am not convinced this grouping of 5 dwellings which are accessed of 3 separate laneways would constitute a cluster as policy requires, therefore the vegetation on the site is irrelevant to this criteria.

- 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 there is no cluster existing within the land surrounding the site and therefore the proposed dwelling cannot be absorbed or round off an entity which does not exist. I would be in concur with the objectors in this viewpoint.

- development would not adversely impact on residential amenity.

As this application is for outline permission, the actual siting of the dwelling within the application site is not confirmed, it is the principle of a dwelling which this application is considering. However, the agent has provided an indicative layout which shows the proposed dwelling sited in the northern part of the site with and an L-shaped access onto the laneway. This lengthy access layout would not be preferable and the rear amenity space of the proposed dwelling would be adjacent to the lawn area of No 103. If the proposed dwelling was sited closer to the south western corner of the site with a straight access, their rear amenity space would lie adjacent to the large garden area to the rear and side of No 103 which is a bungalow. The objectors also highlighted concerns of overlooking and overshadowing. Due to the application site including land at the back of the field, I would not be as concerned regarding the amenity space of No 103 c and although the western and southern boundaries of the site are vegetated, there could be a potential detrimental impact on residential amenity.

As there was no farming information submitted, this proposal would not comply with CTY 10 and as there are no dwellings on the application site CTY 3 is not met. No special personal or domestic circumstances were presented to fulfil CTY 6 and the site does not constitute a gap site under CY 8 as it would create/extend a ribbon of development.

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. The site and the surrounding area is typically flat with a dwelling on this application site would encroach development closer to the public road network by reducing the separation distance from the Drummurrer Lane and the existing dwellings. I believe this would also draw attention to the existing dwellings which are set back some 180 metres from the public road network by extending the built form closer to public view and in doing so also creating a ribbon of development.

In terms of 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. I would have concerns that a dwelling and garage on this application site would further erode the rural character of the area which is already under significant development pressure. Restricting the design, positioning and/or the ridge height through the imposition of conditions to any permission granted would not in my opinion alleviate any issues. I would have concerns that development on this site would result in a suburban style of development and thus result in a detrimental change to the area and thereby not in compliance with CTY 14.

### **Summary of Recommendation:**

Refuse is recommended

On the basis of assessment of the SPPS and the criterion set out in PPS 21, I do not believe this proposal would be in compliance with policy and would agree with most of the points raised by the 4 objectors and thereby would recommend the members of the Planning Committee refuse this proposal.

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development in a cluster and the development cannot be absorbed into an existing cluster.

#### **Reason 3**

The proposal is contrary to Policy CTY 8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted,



would create or add to a ribbon of development along a laneway off Drummurrer Lane and result in a suburban style build-up of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s):** Cathy Hughes

**Date:** 24 January 2023

ANNEX	
Date Valid	31 August 2022
Date First Advertised	13 September 2022
Date Last Advertised	13 September 2022
<b>Details of Neighbour Notification (all addresses)</b>  <p>The Owner / Occupier  101 Drummurrer Lane Coalisland Tyrone BT71 4QJ</p> <p>The Owner / Occupier  103 Drummurrer Lane Coalisland Tyrone BT71 4QJ</p> <p>The Owner / Occupier  103A Drummurrer Lane Coalisland Tyrone BT71 4QJ</p> <p>The Owner / Occupier  105 Drummurrer Lane Coalisland Tyrone BT71 4QJ</p>	
Date of Last Neighbour Notification	31 October 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  <p>Ref: M/1987/0276  Proposals: BUNGALOW  Decision: PG  Decision Date:</p> <p>Ref: LA09/2020/1187/F  Proposals: Infill site for dwelling &amp; garage  Decision: PG  Decision Date: 13-JAN-21</p> <p>Ref: M/2003/1147/F  Proposals: Retention of greyhound kennels, pens, gallop and hard standing area  Decision: PG  Decision Date: 29-DEC-03</p>	

Ref: M/2004/1518/O

Proposals: Proposed dwelling - living accommodation

Decision: PG

Decision Date: 04-JAN-05

Ref: LA09/2015/0305/O

Proposals: Proposed infill site for dwelling and garage

Decision: PG

Decision Date: 15-JUL-15

Ref: M/2006/1749/RM

Proposals: Proposed Dwelling & Garage

Decision: PG

Decision Date: 14-DEC-06

Ref: M/2003/1129/F

Proposals: Retention of dwelling

Decision: PG

Decision Date: 20-OCT-03

Ref: M/2002/0402/O

Proposals: Proposed dwelling - living accommodation

Decision: PG

Decision Date: 11-JUN-02

Ref: M/2003/0342/O

Proposals: Proposed dwelling - living accommodation

Decision: PG

Decision Date: 02-JUN-03

Ref: M/2002/0401/O

Proposals: Proposed dwelling - living accommodation

Decision:

Decision Date:

Ref: LA09/2022/1326/O

Proposals: New Private Dwelling and Detached Garage

Decision:

Decision Date:

Ref: LA09/2021/0178/F

Proposals: Replacement 2 storey dwelling with site works

Decision: PG

Decision Date: 13-APR-21

Ref: LA09/2019/1502/F

Proposals: Proposed extension and refurbishment of existing dwelling, with site works.

Decision: PG

Decision Date: 13-FEB-20

Ref: LA09/2020/0997/F

Proposals: Proposed new annex and refurbishment of existing dwelling with site works  
(Extension of curtilage already approved in live planning application La09/2010/1502/F)

Decision: PG

Decision Date: 02-OCT-20

Ref: M/1994/4012

Proposals: Improvements to Dwelling

Decision: PDNOAP

Decision Date:

Ref: M/1986/0592

Proposals: DWELLING

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docx

Rivers Agency-745049 - Final Response.pdf

NI Water - Single Units West-LA09-2022-1326-O.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Site Layout or Block Plan Plan Ref: 01-02

### **Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.23
<b>Application ID:</b> LA09/2022/1413/O	<b>Target Date:</b> 5 January 2023
<b>Proposal:</b> SITE OF DWELLING AND GARAGE ON A FARM.	<b>Location:</b> 90M North Of 2A Brackaghreilly Road, Maghera.
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr TOMAS CONVERY 2 BRACKAGHREILLY ROAD MAGHERA BT46 5LE	<b>Agent Name and Address:</b> Mr AIDAN O' HAGAN 5 DRUMDERG ROAD DRAPERSTOWN, BT45 7EU
<b>Executive Summary:</b>  To Committee - Refusal - Contrary to CTY 1, 10 and CTY 13 of PPS 21.	

## Case Officer Report

## Site Location Plan



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<b>Consultations:</b>
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Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	P1 Form not up loaded to the Portal.
Non Statutory Consultee	DAERA - Coleraine	Consultee Response - LA09-2022-1413-O.DOCX
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

[illegible]

<b>Representations:</b>	
Letters of Support	0
Letters Non Committal	0
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

Summary of Issues	
1. <b>Issue 1:</b>	2. <b>Issue 2:</b>
3. <b>Issue 3:</b>	4. <b>Issue 4:</b>
5. <b>Issue 5:</b>	6. <b>Issue 6:</b>
7. <b>Issue 7:</b>	8. <b>Issue 8:</b>
9. <b>Issue 9:</b>	10. <b>Issue 10:</b>
11. <b>Issue 11:</b>	12. <b>Issue 12:</b>
13. <b>Issue 13:</b>	14. <b>Issue 14:</b>
15. <b>Issue 15:</b>	16. <b>Issue 16:</b>
17. <b>Issue 17:</b>	18. <b>Issue 18:</b>
19. <b>Issue 19:</b>	20. <b>Issue 20:</b>
21. <b>Issue 21:</b>	22. <b>Issue 22:</b>
23. <b>Issue 23:</b>	24. <b>Issue 24:</b>
25. <b>Issue 25:</b>	26. <b>Issue 26:</b>
27. <b>Issue 27:</b>	28. <b>Issue 28:</b>
29. <b>Issue 29:</b>	30. <b>Issue 30:</b>
31. <b>Issue 31:</b>	32. <b>Issue 32:</b>
33. <b>Issue 33:</b>	34. <b>Issue 34:</b>
35. <b>Issue 35:</b>	36. <b>Issue 36:</b>
37. <b>Issue 37:</b>	38. <b>Issue 38:</b>
39. <b>Issue 39:</b>	40. <b>Issue 40:</b>
41. <b>Issue 41:</b>	42. <b>Issue 42:</b>
43. <b>Issue 43:</b>	44. <b>Issue 44:</b>
45. <b>Issue 45:</b>	46. <b>Issue 46:</b>
47. <b>Issue 47:</b>	48. <b>Issue 48:</b>
49. <b>Issue 49:</b>	50. <b>Issue 50:</b>
51. <b>Issue 51:</b>	52. <b>Issue 52:</b>
53. <b>Issue 53:</b>	54. <b>Issue 54:</b>
55. <b>Issue 55:</b>	56. <b>Issue 56:</b>
57. <b>Issue 57:</b>	58. <b>Issue 58:</b>
59. <b>Issue 59:</b>	60. <b>Issue 60:</b>
61. <b>Issue 61:</b>	62. <b>Issue 62:</b>
63. <b>Issue 63:</b>	64. <b>Issue 64:</b>
65. <b>Issue 65:</b>	66. <b>Issue 66:</b>
67. <b>Issue 67:</b>	68. <b>Issue 68:</b>
69. <b>Issue 69:</b>	70. <b>Issue 70:</b>
71. <b>Issue 71:</b>	72. <b>Issue 72:</b>
73. <b>Issue 73:</b>	74. <b>Issue 74:</b>
75. <b>Issue 75:</b>	76. <b>Issue 76:</b>
77. <b>Issue 77:</b>	78. <b>Issue 78:</b>
79. <b>Issue 79:</b>	80. <b>Issue 80:</b>
81. <b>Issue 81:</b>	82. <b>Issue 82:</b>
83. <b>Issue 83:</b>	84. <b>Issue 84:</b>
85. <b>Issue 85:</b>	86. <b>Issue 86:</b>
87. <b>Issue 87:</b>	88. <b>Issue 88:</b>
89. <b>Issue 89:</b>	90. <b>Issue 90:</b>
91. <b>Issue 91:</b>	92. <b>Issue 92:</b>
93. <b>Issue 93:</b>	94. <b>Issue 94:</b>
95. <b>Issue 95:</b>	96. <b>Issue 96:</b>
97. <b>Issue 97:</b>	98. <b>Issue 98:</b>
99. <b>Issue 99:</b>	100. <b>Issue 100:</b>

To Committee – Refusal – Contrary to CTY 1, 10 and CTY 13 of PPS 21.

## Characteristics of the Site and Area

The proposed site is located approximately 3.6km west of the development limits of Maghera, as such the site is located within the open countryside outside any designations as per the Magherafelt Area Plan 2015. The site is identified as 90M North Of 2A Brackaghreilly Road, Maghera in which the red line covers a portion of a much larger agricultural field. I note that the field is bounded by mature trees on all boundaries, in which the site is accessed via an existing shared laneway off the public road. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.

#### Representations

Two neighbour notifications were sent out however no representations were received.

### Description of Proposal

This is an outline application for a proposed site for a dwelling and garage on a farm, the site is located 90M North Of 2A Brackaghreilly Road, Maghera.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

Mid Ulster Local Development Plan 2030 – Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 – General Principles

PPS 3 – Access, Movement and Parking

PPS 21 – Sustainable Development in the Countryside

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

CTY 1 – Development in the Countryside

CTY 10 – Dwellings on the Farm

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a

dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

(a) the farm business is currently active and has been established for at least 6 years;  
(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. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the farm business was only allocated in 2020 and that claims only have been made in 2022. I note that with the application that a number of signed letters were submitted, a series of them state a number of works completed inclusive of fencing, adding slurry, re-seeding and hedge cutting. In addition, one states that he claimed the lands from the applicant between 2015-2020. Whilst I acknowledge the additional information, it has been discussed with my Senior Planner that the application has still failed to demonstrate as an active and established business as per required by policy.

With respect to (b), I note that no farm maps were submitted with this application, however the agent submitted a map to confirm the lands in connection with the farm business. From review of this map, I can confirm that there does not appear to be any approvals under this policy nor has any other development opportunities sold off in the last ten years.

With respect to (c), I first note that the registered address of the farm business sits approximately 300m south west of the site with the agent confirming that the applicant does not own lands immediately around the only buildings on the farm i.e. the farm house. He chose this site given the existing landscaping around the site. I note that the applicant owns the adjacent field to the site that sits between the site and the farm house. Whilst I acknowledge the rationale for the siting I hold the view that the dwelling should be sited in the field adjacent to the site as this would be closest location to the buildings on the farm as any dwelling would still be able to integrate with the chance of minimal visual linkage. From this I hold the view that this application fails under CTY 10 of PPS 21.

Upon review of the remainder of the policies of CTY 1 I hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

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 hold the view than an appropriately designed dwelling will not



appear as visually prominent in the landscape. I note that as much of the existing landscaping should be retained and supplemented with additional landscaping, with such any dwelling would be able to successfully integrate. Given the landform and surrounding development I feel it necessary to restrict any ridge height to 6.5m. As noted the site is not located to cluster or visually link with an established group of buildings on the farm. Given such I hold the view that the application does not fully comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As such I am content that an appropriately designed dwelling would not appear unduly prominent in the landscape. I note that dwelling is unlikely to result in adverse impact on the rural character of the area. I am content that this is able to comply under CTY 14.

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.

PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response confirmed that they had no objections subject to conditions and informatives. I am content that the access is acceptable under PPS 3.

I have no ecological or residential amenity concerns.

The proposal has failed under CTY 1,10 and 13 of PPS 13 as such a refusal is recommended.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

**Reason 2**

The proposal is contrary to 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 for at least six years nor is the proposed dwelling visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Signature(s):** Peter Henry

**Date:** 19 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 September 2022
<b>Date First Advertised</b>	4 October 2022
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 2 Brackaghreilly Road Maghera Londonderry BT46 5LE The Owner / Occupier 2A Brackaghreilly Road Maghera Londonderry BT46 5LE	
<b>Date of Last Neighbour Notification</b>	31 October 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-P1 Form not up loaded to the Portal. DAERA - Coleraine-Consultee Response - LA09-2022-1413-O.DOCX DFI Roads - Enniskillen Office-Outline resp.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01/TC/14/22 Site Layout or Block Plan Plan Ref: 02/TC/14/22	
<b>Notification to Department (if relevant)</b>  Not Applicable	



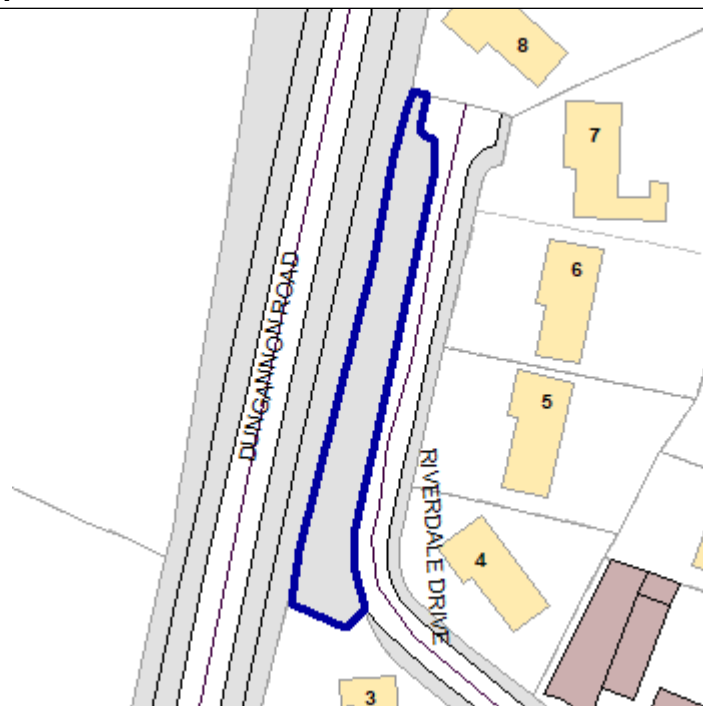


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.24
<b>Application ID:</b> LA09/2022/1419/O	<b>Target Date:</b> 5 January 2023
<b>Proposal:</b> Single detached Bungalow with associated external private amenity space and garage.	<b>Location:</b> Detached Dwelling And Garden At Lands To The West Of 4,5, 6 & 7 Riverdale Drive, Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Sammy Lyle 167 Drum road Cookstown BT80 9DW	<b>Agent Name and Address:</b> Mr karson tong 172 Bates Avenue Bebox Unit 5 Belfast BT12 6ND
<b>Executive Summary:</b>  The current application is presented as a refusal, having failed to meet the requirements of policy CTY 1 and CTY 2A of PPS 21. It has also received objections from neighbouring properties at No. 3, 5, 7 and 8 Riverdale Drive, Cookstown.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline.docx
Statutory Consultee	Historic Environment Division (HED)	
Statutory Consultee	DFI Roads - Enniskillen Office	Roads outline - RECON RESPONSE.docx
Statutory Consultee	DFI Roads - Enniskillen Office	Additional information requested.
Statutory Consultee	DFI Roads - Enniskillen Office	Additional information requested.
Statutory Consultee	Historic Environment Division (HED)	

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	6
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

## Summary of Issues

Concerns raised by objectors are summarised below:

1. Application site is too narrow for proposed development
2. Impact on neighbouring properties views and potential decrease in house value
3. Roadway is too narrow to allow cars to park
4. Hard shoulder to the east of the site is very busy, lorries regularly park up
5. Overdevelopment of the site / neighbourhood
6. Impact on the character of the long established and mature neighbourhood

## Characteristics of the Site and Area

### Characteristics of the Site and Area

The application site is located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, approximately 0.4km south of the settlement limits of Cookstown. The application site is a narrow strip of land located in an existing residential cul-de-sac that runs parallel to the Dungannon Road. The site is accessed from Ardcomber Road. There are a number of residential properties immediately to the north, east and south of the application site, with commercial development further north and agricultural lands to the east.

The site is defined along the eastern boundary by a timber fence, with all remaining boundaries undefined. There is a listed building located approximately 0.1km southeast of the application site at No. 27 Ardcomber Road.



### Consultations

1. Historic Environment Division (Historic Buildings) have considered the proposal and have advised that it is sufficiently removed in context from the listed building as to have no impact.

2. DfI Roads were consulted initially and requested further information, however as this proposal is being presented as a refusal for other reasons, the additional information sought is irrelevant in the determination of this application.

### Site History

There is no relevant site history for this application site.

### **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. This application was initially advertised in the local press on 04/10/2022 and readvertised on 01/11/2022. Seven neighbouring properties were notified in relation to this application and objections have been received from four of these properties.

### **Description of Proposal**

This is an outline application for a proposed single detached bungalow with associated external private amenity space and garden located at lands to the west of No. 4, 5, 6 & 7 Riverdale Drive, Cookstown.

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

#### **Policy Consideration**

##### **Cookstown Area Plan 2010**

The site is located approximately 0.4km south of the development limits of Cookstown as per the Cookstown Area Plan 2010. There are no other zonings or designations related to the site.

##### **Strategic Planning Policy Statement for Northern Ireland (SPPS)**

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

Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. 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'.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22<sup>nd</sup> 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 24<sup>th</sup> September 2020. The period for Counter Representations closed on 18<sup>th</sup> December 2020. On the 28<sup>th</sup> of May 2021, the Council submitted the draft Plan Strategy to DfI for them to cause an Independent Examination. In light of this, the Draft Plan Strategy does not yet carry determining weight.



## Planning Policy Statement 21 – Sustainable Development in the Countryside

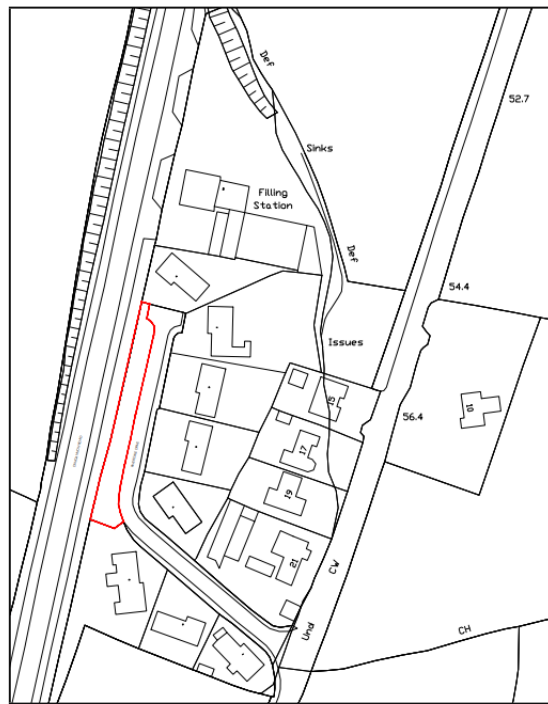
Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access, and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

Policy CTY 2a states that planning permission will be granted for a 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;***

I am content that there is a cluster of development with six dwellings located to the north, east and south of the proposed site.



- ***The cluster appears as a visual entity in the local landscape;***

I am content that the cluster appears as a visual entity in the local landscape. Whilst travelling along the Dungannon Road, it is clear that there is a cluster of

development in this location. Similarly, whilst travelling along the Ardcomber Road and upon entering Riverdale Drive it is clear that there is a cluster.

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

There is an existing filling station to the north of the application site which acts as a focal point in this instance.

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

I am content that the site is bounded to the north and south by dwellings. I am content that this criterion has been met.

- ***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;***

The current proposal represents the overdevelopment of a restricted site which is not in keeping with the character of the existing residential development. I am not content that the proposal meets this criterion.



- Development would not adversely impact on residential amenity;

The site is extremely narrow and lacks sufficient private amenity space for the applicant, therefore I am not content that this criterion has been met.

#### **Summary of Recommendation:**

Refuse is recommended

#### Refusal Reasons

##### Reason 1

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

##### Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

A dwelling would if permitted represent the overdevelopment of a very restrictive site and would significantly alter the existing character of the cluster.

A dwelling would if permitted adversely impact on residential amenity as the restrictive nature of the site would not allow for the provision of adequate and useable private amenity space.

**Signature(s):** Zoe Douglas

**Date:** 26 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	22 September 2022
<b>Date First Advertised</b>	1 November 2022
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification (all addresses)</b>  The Owner / Occupier 8 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 7 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 6 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 5 Riverdale Drive Cookstown Tyrone BT80 9AJ The Owner / Occupier 3 Riverdale Drive Cookstown Tyrone BT80 9AJ	
<b>Date of Last Neighbour Notification</b>	9 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1419/O Proposals: Single detached Bungalow with associated external private amenity space and garage. Decision: Decision Date:  Ref: I/1998/0040 Proposals: Extension to dwelling Decision: PG Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Roads outline.docx	

<p>Historic Environment Division (HED)-  DFI Roads - Enniskillen Office-Roads outline - RECON RESPONSE.docx  DFI Roads - Enniskillen Office-Additional information requested.  DFI Roads - Enniskillen Office-Additional information requested.  Historic Environment Division (HED)-</p>
<p><b>Drawing Numbers and Title</b></p> <p>Site Location Plan   Plan Ref: PL00</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Not Applicable</p>

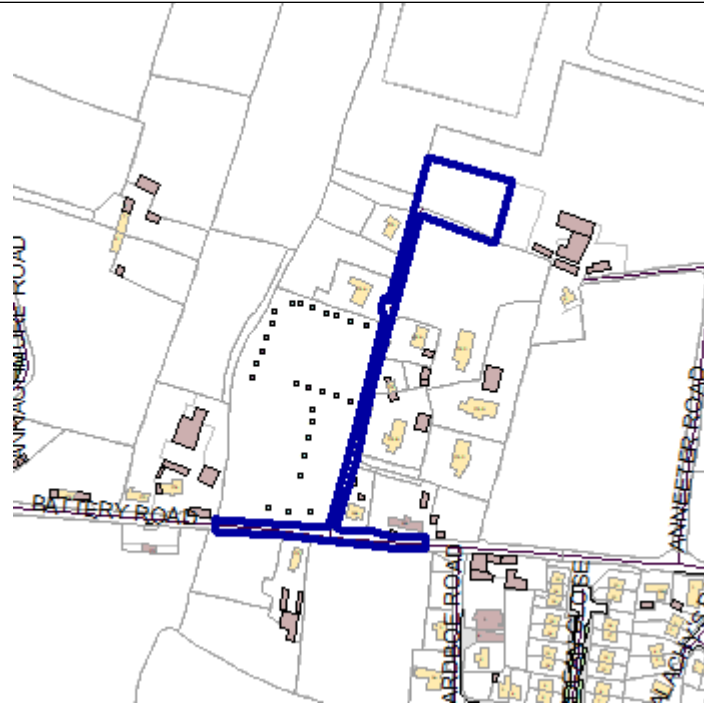


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.25
<b>Application ID:</b> LA09/2022/1426/O	<b>Target Date:</b> 6 January 2023
<b>Proposal:</b> Proposed site for dwelling and garage within a cluster (Visual linkage with adjacent community hub building)	<b>Location:</b> 40M North East Of No 178 Battery Road Moortown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Peter Devlin 120 Ardboe Road Moortown	<b>Agent Name and Address:</b> APS Architects 4 Mid Ulster Business Park Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docRoads outline.docx

### Representations:

Letters of Support	0
Letters Non Committal	1
Letters of Objection	0
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

### Characteristics of the Site and Area

### Description of Proposal

This is an outline application for a proposed dwelling and garage to be located on lands 40m NE of no. 178 Battery Road Moortown.

The proposal is being applied for under policy CTY2A of Planning Policy Statement 21 'New Dwellings in Existing Clusters'.

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

### **Policy Consideration**

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement (PPS) 3: Access, Movement and Parking

Development Control Advice Note (DCAN) 15: Vehicular Standards

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

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

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

### **Relevant Planning History**

None applicable

### **Consultees**

1. DfI (Roads) – were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.

**Cookstown Area Plan** - The site is located in the rural countryside outside any designated settlement.



**The Strategic Planning Policy Statement (SPPS) for Northern Ireland** - advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside which deals with development such as proposed, are retained.

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

- is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. One instance, which the applicant has applied under, is a new dwelling in an existing cluster in accordance with Policy CTY2a.

Policy CTY 2a New Dwellings in Existing Clusters states planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

1. 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.
2. The cluster appears as a visual entity in the local landscape.
3. The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.
4. The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.
5. 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.
6. Development would not adversely impact on residential amenity.

This proposal does not meet the criteria of Policy CTY 2a, as the site is not located within a cluster of development in the countryside. With the exception of the GAC buildings and grounds located to the north of the site all other development bounding it, namely the farm holding to the east is located within Moortown Settlement Limits.

Additionally, the proposed development by reason of its location immediately adjacent Moortown Settlement Limits would be contrary to Policy CTY 15 – The Setting of Settlements in that it would result in urban sprawl.

I have considered other instances listed under Policy CTY1 of PPS21 whereby the development of a dwelling in the countryside is considered acceptable however this proposal fails to meet with these instances.

**Other Policy and Material Considerations**

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural heritage features of significance on the site.

Flood Maps NI indicate no flooding on site.

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 1 non-committal had been received on the 25<sup>th</sup> November 2022 from Ms Sara Isaly the owner / occupier of no. 6 Anneeter Road, a farm holding comprising a dwelling and farm sheds located to the east of the site received. Ms Isaly wished to list the following datum to be preserved.

1. I do not object to the proposed site for dwelling and garage.
2. I would wish to make clear that I have permission since 2019 to own and keep pigs at the existing Piggery which is located close to the site at the farm at 6 Anneeter Road. I would like the persons applying to build on the site to be aware of this.
3. Also the right of way established By Peter Devlin (sr) by law in the 1910-1920 is maintained and continues in to the farm at 6 Anneeter Road from 178 battery road. The right of way was last used in June of this year 2022.

This application is recommend for refusal as such no further information to address the comments above have been sought at this time.

### **Recommendation**

Refuse

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted result in urban sprawl.

**Signature(s):** Emma Richardson

**Date:** 26 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	23 September 2022
<b>Date First Advertised</b>	4 October 2022
<b>Date Last Advertised</b>	4 October 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 182 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 178C Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 174 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 178D Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 176A Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 178B Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 180 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 6 Anneeter Road Cookstown BT80 0HZ The Owner / Occupier 178A Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 176C Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 176 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 175 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 178 Battery Road Cookstown Tyrone BT80 0HS The Owner / Occupier 178E Battery Road Cookstown Tyrone BT80 0HS	
<b>Date of Last Neighbour Notification</b>	29 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>

## **Planning History**

Ref: I/1992/0267

Proposals: Dwelling

Decision: WITHDR

Decision Date:

Ref: I/2009/0288/F

Proposals: Relocation of St Malachys Moortown GAC including 3 no playing fields with floodlighting (on 2 pitches) community building with changing facility, children outdoor playing area and associated parking

Decision: PG

Decision Date: 18-MAR-10

Ref: I/1974/0266

Proposals: RESIDENTIAL DEVELOPMENT

Decision: PG

Decision Date:

Ref: LA09/2022/1426/O

Proposals: Proposed site for dwelling and garage within a cluster (Visual linkage with adjacent community hub building)

Decision:

Decision Date:

Ref: LA09/2017/0831/F

Proposals: Proposed Amendment to Condition No.1 of Planning Permission LA09/2015/0881/F to extend the time limit for the completion of the approved works to 2 months from the date of any new approval now granted

Decision: PG

Decision Date: 24-AUG-17

Ref: LA09/2015/0881/F

Proposals: Improvement Works for both Vehicular and Pedestrian Usage, superceeding that initially approved under application no I/2009/0288/F

Decision: PG

Decision Date: 01-NOV-16

Ref: I/2007/0410/F

Proposals: Proposed development of two private dwellings and garages

Decision: PG

Decision Date: 04-JUL-08

Ref: I/2004/1389/F

Proposals: 26 No dwellings

Decision: PG

Decision Date: 27-MAY-08

Ref: LA09/2020/0966/F

Proposals: Housing development of 28 semi detached dwellings and 1 detached dwelling, site road and associated site works

Decision:

Decision Date:

Ref: I/1991/0328B

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/2008/0413/LDP

Proposals: New pitched roof to replace existing flat roof

Decision: PG

Decision Date: 08-JUL-08

Ref: I/1991/0328

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: LA09/2019/0055/F

Proposals: Single storey extension to the rear of 178 Battery Road

Decision: PG

Decision Date: 22-FEB-19

Ref: I/2008/0621/F

Proposals: Proposed new dwelling and garage

Decision: PG

Decision Date: 12-MAR-09

Ref: I/1990/0271

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: I/1990/0173

Proposals: Dwelling

Decision: PG

Decision Date:

Ref: LA09/2015/0353/F

Proposals: Care/Residential Home for the elderly consisting of 45 bedrooms over 2 levels, with associated gardens and parking space. (Renewal of previous planning

permission I/2009/0134/F)

Decision: PG

Decision Date: 07-SEP-17

Ref: I/2007/0885/F

Proposals: Relocation of St Malachy Moortown GAC including 3 no. playing field with floodlighting (on 2 pitches), community building with changing facility, children outdoor playing area and associated parking

Decision:

Decision Date:

Ref: LA09/2020/1193/F

Proposals: Supermarket, self serve fuel station and associated site works (revised plans

Decision:

Decision Date:

Ref: I/2009/0134/F

Proposals: Care/residential home for the elderly consisting of 45 bedrooms over two levels, with associated gardens and parking space

Decision: PG

Decision Date: 21-JUN-10

Ref: LA09/2020/0808/F

Proposals: Proposed Dwelling

Decision: PG

Decision Date: 02-OCT-20

Ref: I/1994/0294

Proposals: Extension and alterations to Dwelling

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docRoads outline.docx

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: P.01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.26
<b>Application ID:</b> LA09/2022/1504/O	<b>Target Date:</b> 27 January 2023
<b>Proposal:</b> Proposed site for dwelling and domestic garage as cluster policy cty 2a	<b>Location:</b> 160M North East Of 116 Lurgylea Road, Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr PATRICK CLARKE 100 LURGYLEA ROAD DUNGANNON BT70 2NY	<b>Agent Name and Address:</b> Mr AUSTIN MULLAN 38b AIRFIELD ROAD TOOMEBRIDGE BT41 3SG
<b>Executive Summary:</b>	



## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	No objection, subject to conditions. Roads outline.docx FORM RS1 STANDARD.doc

### Representations:

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

### Summary of Issues

The proposal is contrary to Policy CTY2a of PPS 21 in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster. The proposal also fails to meet CTY1, CTY 13 and CTY14 of PPS 21.

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

The site is a 0.95ha parcel of ground located on the Lurgylea Road and lies approximately 2.3km north west of Galbally. The site is located within the rural countryside, outside any defined settlement limit as identified in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red is a triangular field with the Lurgylea Road running along the southern boundary and the Shanmaghry Road running along the northern boundary. The southern boundary is defined by hawthorn hedging, with similar hedging and intermittent mature deciduous trees along the southern half of the eastern boundary. The northern boundary is defined by a double post and wire fence with saplings in between the two fences. The highest point of the site is at the southeastern tip, with the site falling away from the Lurgylea Road towards the Shanmaghry Road, as well as from east to west.

There is little recent development pressure in the area, with a single storey dwelling with associated shed and also a commercial double garage (Barrack Hill Garage) to the south of the site, and an agricultural structure to the north of the site. Altmore Church Of the Immaculate Conception lies 130m to the south of the western most tip of the site, with a two storey dwelling and associated outbuildings (No. 116 Lurgylea Road) 76m to the SW of this point.

## **Description of Proposal**

Proposed site for dwelling and domestic garage as cluster policy cty 2a

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

### **Policy Consideration**

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

### **Relevant Histories**

There are no recent relevant histories associated with this site.

### **Representations**

Three (3) neighbouring properties were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. To date no letters of

representation have been received.

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

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

### **Mid Ulster District Council Draft Plan Strategy 2030**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

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

### **PPS 3 – Access, Movement and Parking**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves a new access onto the Shanmaghry Road, as indicated on the submitted plan. DFI Roads have no objection subject to sightlines of 2.4m x 60m being provided. This will result in the existing hedge and fence to be setback within the sight visibility line area, which I consider acceptable.

### **CTY1 of PPS 21 - Development in the Countryside**

PPS21 is the overarching document for assessing development proposals in the countryside. Policy CTY1 of PPS21 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. Planning permission will be granted for an individual dwelling house in the countryside in the following cases:

- a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a;
- a replacement dwelling in accordance with Policy CTY 3;

- a dwelling based on special personal or domestic circumstances in accordance with Policy CTY 6;
- a dwelling to meet the essential needs of a non-agricultural business enterprise in accordance with Policy CTY 7;
- the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8; or
- a dwelling on a farm in accordance with Policy CTY 10.

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

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

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

The existing development in the area lies outside of a farm. To the south of the site lies No. 110 - a single storey dwelling which has a large shed building adjacent and west of it situated within the same curtilage, and No. 112 - Barrack Hill Garage. An agricultural structure is situated to the north of the site. A Church with associated carpark, and No. 116 a two storey dwelling with associated outhouses lie further to the south/southwest of the site. The agricultural structure to the north is open on two sides and therefore cannot be included within any cluster. On the same principle, the shed associated with No. 110 cannot be considered, nor can the ancillary buildings at No. 116. The Church lies 130m from the nearest point of the site, with No. 116 located 76m from the nearest point of the site. It should be noted at this time that the agent has indicated the southwestern most portion of the site as the preferred location of the site, which would increase these distances to 158m and 160m respectively. These buildings are all located in a linear form along the Lurgylea Road. I do not feel there is an existing cluster of development at this location, nor are there at least three dwellings. From this I consider the first criterion for CTY 2a has not been met.

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

When viewed on site and from orthophotography the site and the surrounding development does not appear as a visual entity in the landscape. When travelling northwest along the Lurgylea Road the site will read with the existing development at No. 110 as well as with Barrack Hill Garage; however, it does not read with the Church or No. 116 given their set back and distance from the public road, as well as the existing mature vegetation. When travelling southeast along the Lurgylea Road the site is viewed with No. 116 and with the garage. There is no visual connection with the Church given its setback and the intervening vegetation. When travelling northeast along the Shanmaghy Road along the site frontage, a dwelling sited as proposed will read with No. 110 and the garage but not with the Church or No. 116. When travelling southwest along the Shanmaghy Road a dwelling as proposed will read with No. 110, the garage and No. 116. These views are filtered by the existing vegetation along the southern portion of the eastern boundary. Once again, the Church is screened from view by the intervening vegetation. There is currently no sense of arriving at 'a cluster' on any approach to the

site and I therefore do not feel the second criterion has been met.

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

The focal point as identified by the agent comprises the Church as well as the dwelling and ancillary buildings at No. 116. The Church can be considered a focal point here, but I do not feel there is a cluster of development associated with it as there is not four or more buildings of which at least three are dwellings. Furthermore, although the site is located at a road junction it is not a cross-roads, and as such the proposal fails to comply with the third criterion of CTY2a.

*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 has limited vegetation cover save for the southern half of the eastern boundary. The site is bounded to the south by a single storey dwelling with associated shed as well as a commercial garage. There is no development to the eastern boundary, and only an open sided agricultural structure to the north. The site is only bounded to one side by development. I do not feel the site has a suitable degree of enclosure, nor is it bounded on three sides with other development. I do not consider this criterion has been met.

*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;*

A new dwelling here cannot be absorbed into the existing cluster, as a cluster of development does not exist. A dwelling on this site would significantly alter the existing character here. As there is no existing development on either side it is my consideration the development could not be absorbed, but would rather significantly alter the existing character and would visually intrude into the open countryside. Accordingly, the fifth criterion cannot be met.

*development would not adversely impact on residential amenity.*

A new dwelling on this site would not adversely impact on residential amenity should an approval be considered acceptable.

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

CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application the design elements of CTY 13 cannot be dealt with under this application but will be considered under any RM or Full application. It is my consideration that the site lacks long established natural boundaries suitable to provide a degree of enclosure for the building to integrate into the landscape, but rather would rely primarily on the use of new landscaping for integration. The proposal fails to meet the requirements of CTY 13.

CTY 14 of PPS21 Rural Character states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The proposed dwelling would read with the existing

buildings in both static and transient views. This would result in a suburban style build-up of development that would be detrimental to rural character. A dwelling on this site is not in accordance with this policy and the proposal therefore fails to comply with CTY 14.

There is no evidence to suggest that the appeal proposal falls into any other types of development that are listed as acceptable in principle in the countryside under Policy CTY 1 or that there are overriding reasons why the development is essential and could not be located in a settlement. The agent was advised on 30<sup>th</sup> November 2022 that we did not think this application met Policy CTY2a as there is not an existing cluster of development consisting of at least three dwellings, however no further justification for the site has been provided. It therefore does not comply with Policy CTY1 or Policy CTY2a of PPS21.

### **Other Material Considerations**

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

From a check of the Rivers Agency Strategic Flood Map I have no flooding concerns. I recommend the application is refused as it is contrary to CTY 1, CTY 2a, CTY 13 and CTY 14 of PPS 21.

### **Summary of Recommendation:**

Refuse is recommended

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site is not associated with a focal point, it is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

Reason 3

The proposal is contrary to Policy CTY 13 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the site lacks well established boundaries to enable the site to integrate in the rural countryside and as a result the proposal would, if permitted, erode the rural character of the area.

**Signature(s):** Deirdre Lavery

**Date:** 24 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	14 October 2022
<b>Date First Advertised</b>	25 October 2022
<b>Date Last Advertised</b>	25 October 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier Church Of The Immaculate Conception Altmore Pomeroy The Owner / Occupier 116 Lurgylea Road, Dungannon BT70 2NY The Owner / Occupier 110 Lurgylea Road, Dungannon BT70 2NY	
<b>Date of Last Neighbour Notification</b>	18 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-No objection, subject to conditions.Roads outline.docxFORM RS1 STANDARD.doc	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01	



**Notification to Department (if relevant)**

Not Applicable

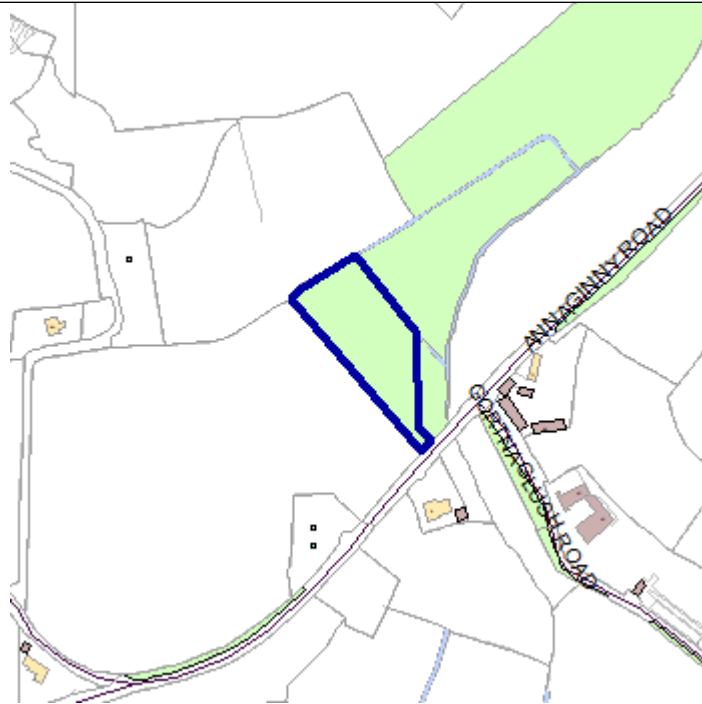


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.27
<b>Application ID:</b> LA09/2022/1512/O	<b>Target Date:</b> 1 February 2023
<b>Proposal:</b> Development of two storey dwelling with single storey garage, associated ancillary site works, landscaping and the construction of a new access to the public road.	<b>Location:</b> 25M North Of 15 Annaginny Road Dungannon
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr And Mrs Philip Brown 11 Annahavil Road Dungannon BT71 4BU	<b>Agent Name and Address:</b> Mr Eunan Deeney 3a Killycolp Road Killycolp Road Cookstown BT809AD
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	FORM RS1 STANDARD.docNo objection, subject to conditions.Roads outline.docx
Non Statutory Consultee	Geological Survey NI (DfE)	3246 MUDC Planning. 25m North Of 15 Annaganny Road Dungannon.doc

### Representations:

Letters of Support	0
Letters Non Committal	0
Letters of Objection	2
Number of Support Petitions and signatures	
Number of Petitions of Objection and signatures	

### Summary of Issues

## Characteristics of the Site and Area

The site is located in the rural countryside as designated within the Dungannon and South Tyrone Area Plan 2010, a short distance outside and southeast of Carland settlement limits.

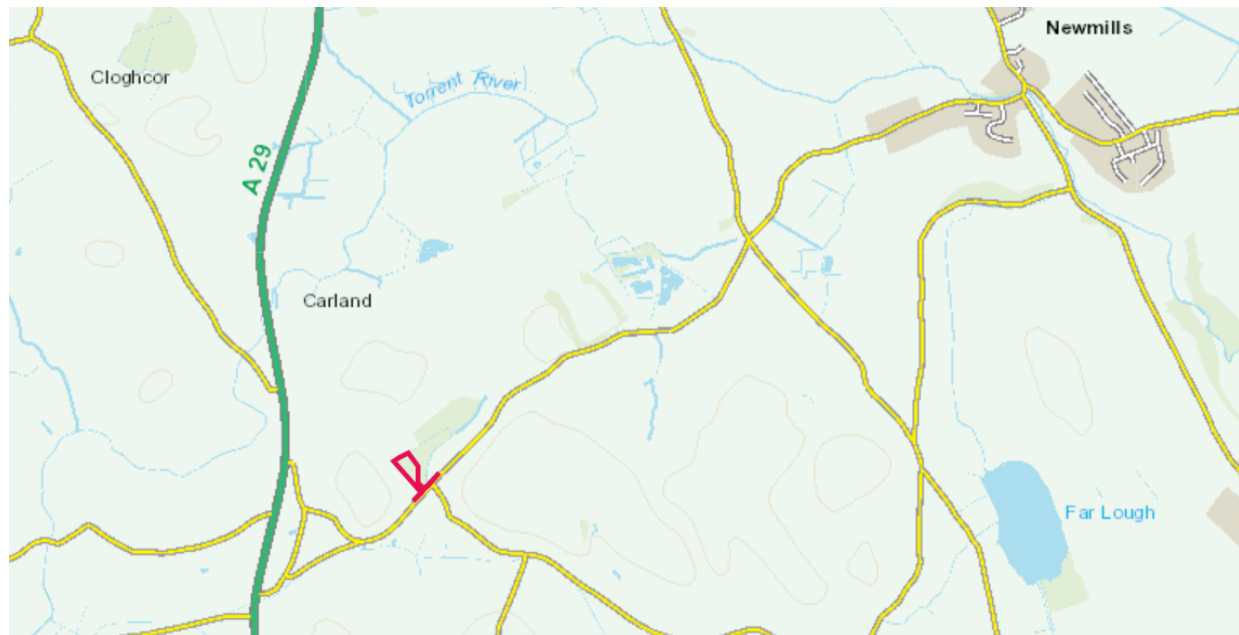


Fig 1: Site outlined red



Fig 2: Site outlined red

The site comprises a relatively rectangular shaped plot of lands set back slightly from and accessed off the Annaginny Road just southwest of its junction with the Gortnaglush Road. The site comprises the southwest half of a larger corpse of trees. Views of the site are on the southwest approach along the Annaginny Road albeit views into it are screened by the trees on it. Views of the site are screened on northeast approach along the Annaginny Road by the northeast half of the larger corpse of trees. The surrounding lands are largely rural, scattered with single dwellings and associated outbuildings. Carland Presbyterian Church is located a short distance southeast of the site adjacent the Gortnaglush Road.

### **Description of Proposal**

This is an outline application for a two-storey dwelling and single storey garage, with ancillary site works including landscaping and a new access onto the public road, to be located on lands 25m North of 15 Annaginny Road Dungannon.

It has been submitted that this proposal falls under Policy CTY2a of Planning Policy Statement 21 'New Dwellings in Existing Clusters'.

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

#### **Policy Consideration**

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Dungannon and South Tyrone Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

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

## **Planning History**

### On site

- LA09/2021/1086/O - Site 1, 80m NW of 11 Annaginny Road Dungannon - Development of two storey dwelling with single storey garage, associated ancillary site works, landscaping and the construction of a new shared access to the public road - Withdrawn.

### Adjacent site

- LA09/2021/1090/O – 80m NW of 11 Annaginny Road Dungannon - Development of two storey dwelling with single storey garage, associated ancillary site works, landscaping and the construction of a new access to the public road – Granted 25<sup>th</sup> April 2022.

The above application relates to a dwelling and garage approved immediately northeast of the current site within the other half of the larger corpse of trees.

## **Consultees**

1. DfI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. DETI Geological Survey of Northern Ireland (GSNI) were consulted as the site is located within an area of constraint on abandoned mines – GSNI responded that having assessed the above planning proposal in view of stability issues relating to abandoned mine workings they had no objection. A search of the GSNI's "Shafts and Audits Database" indicates that the proposed site is not in an area of known abandoned mine workings.

## **Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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

Planning Policy Statement 21: Sustainable Development in the Countryside - is the overarching policy for development in the countryside states that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in CTY1 of PPS21. One instance, which the applicant has applied under, is a new dwelling in an existing cluster in accordance with Policy CTY2a.

Policy CTY 2a New Dwellings in Existing Clusters states planning permission will be granted for a dwelling at an existing cluster of development provided all the following

criteria bullet pointed 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.

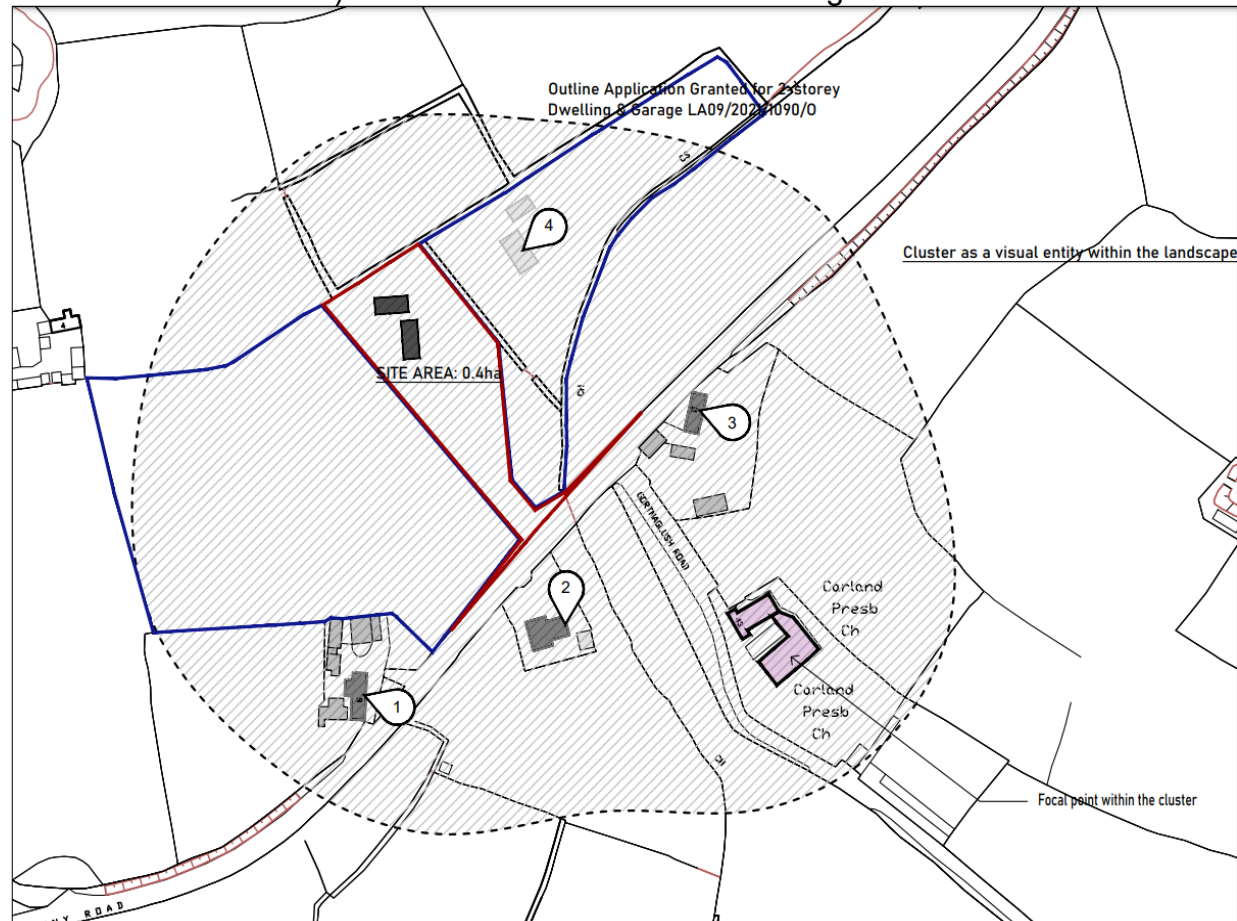


Fig 3: Map submitted by the agent as part of a Supporting Statement for a dwelling under Policy CTY 2a New Dwellings in Existing Clusters

Whilst I have considered a Supporting Statement and accompanying Map (Fig 3) submitted by the agent I do not consider the site is located at an existing cluster of development as defined in bullet point 1 further above. Whilst a small no. of buildings exist to the southeast of the site to the opposite side of Annaginnny Road including 2 dwellings with associated buildings and a Church (highlighted purple in Fig 3), one of the dwellings no.11 Annaginnny Road (labelled 3 in Fig 3) is a two storey farm dwelling bound by a small no. farm sheds. As such outside of the buildings associated with the farm at no. 11 there is only one dwelling, no. 9 Annaginnny Road (labelled 2 in Fig 3) located just south of the site, and a Church within the aforementioned small no. of buildings, not enough to be considered a cluster. Whilst another bungalow dwelling no. 8 Annaginnny Road (labelled 1 in Fig 3) exists to the same side of the road and one large field southwest of the site and a large farm shed to the opposite side of the road, I consider both these buildings too far removed from the site and the aforementioned buildings to cluster and read with them. I would also note whilst a dwelling and garage has been approved (see 'Planning History' - LA09/2021/1090/O) immediately northeast of the



current site within the other half of the larger corpse of trees (labelled 4 in Fig 3) no works in the construction of the proposal had on the date of site inspection, the 28<sup>th</sup> November 2022, commenced.

- The cluster appears as a visual entity in the local landscape.

I do not consider a cluster of development as defined in bullet point one further above exists at this location to enable it to appear as a visual entity.

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

Whilst I believe the Church located to the southeast of the site (highlighted purple in Fig 3), could be considered a focal point it remains that I do not consider a cluster as defined in bullet point one exists at this location in association with it.

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

Reiterating that I do not consider there is an existing cluster at this location for the development to be absorbed into I would add that the site is not bound by development on two sides. Whilst it is bound by development to the opposite side of the Annaginny Road it is not bound by development to any other side. Again, I would note that whilst a dwelling and garage has been approved (see 'Planning History' - LA09/2021/1090/O) immediately northeast of the current site within the other half of the larger corpse of trees (labelled 4 in Fig 3) no works in the construction of the proposal had on the date of site inspection, the 28<sup>th</sup> November 2022, commenced. Given the heavily vegetated nature of this site had it been located at and bound on two sides by development within a cluster I am content it would have provided a dwelling and garage with a suitable degree of enclosure to screen and integrate a dwelling.

- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.

I do not consider there is an existing cluster at this location for the development to be absorbed into to.

- Development would not adversely impact on residential amenity.

Given the heavily vegetated nature of this site, a significant amount of which could be retained, I am content it could accommodate a dwelling and garage of an appropriate siting, size, scale and design without significant adverse impact on the residential amenity of neighbouring properties.

Overall, it is my opinion that the proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development associated with a focal point or located



at a cross-roads and if permitted would visually intrude into the open countryside.

I have considered other instances listed under Policy CTY1 of PPS21 whereby the development of a dwelling in the countryside is considered acceptable however this proposal fails to meet with these instances including a dwelling on a farm. The applicant has already availed recently of the opportunity for a dwelling on a farm under Policy CTY 10 of PPS 21 (see 'Planning History' - LA09/2021/1090/O). Planning permission granted under this policy is only forthcoming once every 10 years.

### **Representations**

Press advertisement and Neighbour Notification have been carried out in line with the Council's statutory duty. At the time of writing, 2 objections had been received one from Amanda and Johnston Ferry the owners / occupiers of no. 11 Annaginny Road, a two-storey farm dwelling bound by a small no. farm sheds located to the east of the site received on the 17<sup>th</sup> November 2022; and a second from Johnston and Craig Ferry received on the 24<sup>th</sup> November 2022. The issues raised within the objections were as follows:

- The first objection outlined that on examining the map it looked as if the proposed new site line and hedge is in the field in front of our house, which is owned by us, and we do not give permission for this site line.
- The second objection outlined that being small landowners on the Annaginny Rd we are concerned about this development. This small planting of trees was we believe grant funded and we cannot see how there is any justification in cutting down a significant part of it to accommodate two building sites and driveways. This will leave a very small percentage of the planting. These trees are now fairly mature and daily we hear of the effect of climate change on the environment, and we are supposed to be planting trees not cutting them down.

In light of the land ownership issues raised above in bullet point 1, the agent was contacted on the 19<sup>th</sup> December 2022 and asked to confirm the applicant owned all the lands outlined in red on the site location plan submitted as detailed on the P1 Form or if the applicant does not to submit an amended certificate of ownership notifying any owners accordingly. Subsequently, the agent emailed back on the 9<sup>th</sup> January 2023 to confirm the applicant owned / controlled all lands. Accordingly, I am content the land ownership issue raised has been brought to the attention of the agent and as any planning permission granted would not confer title, it would be the responsibility of the developer to ensure that he owns / controls all the lands necessary to carry out the proposed development. In relation to bullet point 2, in terms of Planning the trees on site are not protected by a tree preservation order nor have they been identified on NIEA's Natural Environment Division (NED) map viewer as a protected habitat or area.

### **Other Policy and Material Considerations**

Checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets of interest or natural heritage features of significance on or adjacent the site. Flood Maps NI indicate no flooding on site.

**Recommend:** Refuse

<b>Summary of Recommendation:</b>  Refuse is recommended
<b>Refusal Reasons</b>  Reason 1 The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  Reason 2 The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed dwelling is not located within an existing cluster of development associated with a focal point or located at a cross-roads.
<b>Signature(s):</b> Emma Richardson  <b>Date:</b> 25 January 2023

ANNEX	
Date Valid	19 October 2022
Date First Advertised	1 November 2022
Date Last Advertised	1 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 49 Gortnaglush Road Dungannon Tyrone BT71 4EF The Owner / Occupier 9 Annaginny Road Dungannon Tyrone BT71 4DZ The Owner / Occupier 11 Annaginny Road Dungannon Tyrone BT71 4DZ	
Date of Last Neighbour Notification	24 November 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2021/1090/O Proposals: Development of two storey dwelling with single storey garage, associated ancillary site works, landscaping and the construction of a new access to the public road Decision: PG Decision Date: 25-APR-22  Ref: LA09/2021/1086/O Proposals: Development of two storey dwelling with single storey garage, associated ancillary site works, landscaping and the construction of a new shared access to the public road. Decision: WDN Decision Date: 14-FEB-22  Ref: LA09/2022/1512/O Proposals: Development of two storey dwelling with single storey garage, associated ancillary site works, landscaping and the construction of a new access to the public road Decision: Decision Date:	

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-FORM RS1 STANDARD.docNo objection, subject to conditions.Roads outline.docx  
Geological Survey NI (DfE)-3246 MUDC Planning. 25m North Of 15 Annaginny Road Dungannon.doc

**Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.28
<b>Application ID:</b> LA09/2022/1535/F	<b>Target Date:</b> 9 February 2023
<b>Proposal:</b> 1 No two storey dwelling, access and associated works- Permission to complete development already commenced- M/2009/0016/F	<b>Location:</b> Adjacent To 71 Aghintoher Road Dungannon
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Mr A McManus 16 Kirkliston Drive Belfast BT5 5NX	<b>Agent Name and Address:</b> Pragma Planning Scottish Provident Building 7 Donegall Square West Belfast BT1 6JH
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Roads Consultation Full approval.docx

### Representations:

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

### Summary of Issues

This application is being presented to committee as it does not comply with policy, however foundations were put in place and the sightlines have now been provided and it would be harsh not to allow this dwelling to be completed.

### Characteristics of the Site and Area

The site is a 0.4ha parcel of land located on the Aghintoher Road within the rural

countryside approximately 2.3km northeast of Cabragh and is outwith any settlement limits set down in the Dungannon and South Tyrone Area Plan 2010. The site outlined in red comprises an agricultural field with a watercourse running through the site at the eastern corner. The site is defined by mature trees to the northern, western and southern boundaries.

The area is rural in character with a dispersed settlement pattern. Development takes the form of single dwellings with associated outbuildings. There is little development pressure in the area.

### **Description of Proposal**

1 No two storey dwelling, access and associated works- Permission to complete development already commenced- M/2009/0016/F

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

#### **Policy Consideration**

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

#### **Planning History**

M/1998/0341 - Site for dwelling - ADJACENT TO 71 AGHINTOBER ROAD  
AGHINTOBER DUNGANNON PERMISSION GRANTED

M/2001/0937/O – New dwelling - Adjacent to 71 Aghintober Road Aghintober  
Dungannon PERMISSION GRANTED 31.10.2001

M/2004/1725/O - New dwelling (renewal application) - Adjacent to 71 Aghintober Road  
Aghintober Dungannon PERMISSION GRANTED 06.01.2005

M/2009/0016/F – Erection of dwelling - Adjacent to 71 Aghintober Road Aghintober  
Dungannon PERMISSION GRANTED 17.06.2009

LA09/2022/0149/LDP - Erection of a dwelling - Adj To 71 Aghintober Road Dungannon -  
Currently under consideration by the Council.

#### **Representations**

No neighbours were identified to be notified and press advertisement has been carried out in line with the Council's statutory duty. No objections or representations have been

received to date.

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

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

### **Local Development Plan 2030 - Draft Plan Strategy**

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

### **SPPS – Strategic Planning Policy Statement for Northern Ireland**

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

### **PPS 3 – Access, Movement and Parking**

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. DFI Roads development control offer no objection to the above proposal subject to the proposal being constructed and maintained in accordance with the submitted block plan.

### **CTY1 of PPS 21 – Development in the Countryside**

CTY1 allows for a new dwelling in the countryside provided it meets with the criteria specified in other policies within the document. This application has been submitted as the applicant previously submitted a CLUD under LA09/2022/0149/LDP to determine that the works commenced on site were lawful, which cannot be approved as the pre-commencement conditions set down were not complied with.

This development does not meet with any of the specified criteria within CTY1 of PPS 21 however it is quite clear that through applications M/1998/0341/O, M/2001/0937/O, M/2004/1725/O and M/2009/0016/F, planning permission was granted for a dwelling on this site. Outline Planning Permission Ref M/2001/0937/O was granted on 31<sup>st</sup> October 2001 and renewed on 6<sup>th</sup> January 2005. These permissions reserved the access to the site and applied a condition that just required the access to be provided in accordance



with the RS1 form, it did not impose a time for the provision of the access. No Reserved Matters application was subsequently applied for, rather a Full application for a two storey dwelling on the site was approved on 17 June 2009. It considered the details of the access and required that the access was to be provided in accordance with the approved details, before development could commence on the site. This is commonly referred to as a Grampian or negative condition and is a pre-commencement condition; that is, it must be carried out before other works are able to commence.

Due to the failure to provide the access before the commencement of the works, the applicant is unable to obtain a certificate of lawfulness as submitted under LA09/2022/0149/LDP. The consideration of whether or not development is lawful is a legal test set down by legislation, if it cannot meet those tests then it should be refused.

However, a planning application allows the decision makers to exercise some discretion and can take into account other factors that are material to the decision making process. In this case the applicant has clearly commenced development on the site within the time frame set out in their planning permission, as detailed below. Section 63 of the Planning Act states ‘development shall be taken to be begun on the earliest date on which any of the following operations comprised in the development begins to be carried out–

(a) where the development consists of or includes the erection of a building, any work of construction in the course of the erection of the building;’ this is the same as was stated in Article 36 of the Planning Order, which was in effect at the time the development was begun.

From evidence provided within the aforementioned LA09/2022/0149/LDP, it is accepted that works have taken place on the site with foundations poured for the utility room annex. These works have been verified by Robert Farnham and Associates Ltd. Consulting Structural and Civil Engineers, in a letter dated 21 April 2009. Photographs of the site showing the concrete poured dated 01 April 2009 have been provided, as well as a delivery note from the concrete provider also dated 01 April 2009. The agent has made a case that whilst confirmation from Building Control of the date of commencement of a development is currently considered a suitable means of verification, it was known at the time of the works being carried out that confirmation from a professional person such as an architect or engineer was a satisfactory alternative. This is why they employed the services of Mr Farnham who confirmed that the foundations were monitored on-site as necessary to ensure they complied with the NI Building Regulations.

The access to the dwelling was not put in place before the development was commenced as was set out in the Full decision. The Full decision does appear to go further than the Outline Planning Permission which merely stated that the access must be provided in accordance with the RS1 form and did not stipulate when this had to be done. Usually the access must be in place before any other development commences as the access will be used for the construction traffic to serve the site. However, there are occasions where an access is conditioned to be provided at another time. It is clear the access was not put in place before the works were commenced, however it is now in place in accordance with the plans as previously approved, as seen at the time of site

inspection.

It is clear there is no legitimate fallback position here as the applicant does not have a certificate of lawful development in place. I have however taken account of the following factors that I believe are site specific and would not create a wide ranging precedent for new dwellings in the countryside:

- planning permission was previously granted for this dwelling,
- there was lack of a time period on the outline planning permission for the provision of the access and the access is now in place,
- substantial works have been carried out in the course of the erection of the building within the lifetime of the permission lapse.

### **Other Material Considerations**

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

From assessment of the Rivers Agency Strategic Flood Hazards and Flood Risks Map I have no flooding concerns. In addition, I have no ecological or residential amenity concerns. I consider it would be unduly harsh to not allow this dwelling to be completed as approved and recommend it is approved with the conditions attached.

### **Summary of Recommendation:**

Approve is recommended

### **Approval Conditions**

#### **Condition 1**

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

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

#### **Condition 2**

The vehicular access, including visibility splays of 2.0m x 45.0m and any forward sight distance shall be provided in accordance with drawing No. 02 received 22 OCT 2022, 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.

**Condition 3**

The access gradient(s) to the development hereby permitted shall not exceed 8% (1 in 12.5) over the first 5m outside the road boundary.

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

**Condition 4**

All hard and soft landscape works as detailed on drawing No. 02 received 17 OCT 2022 shall be carried out in accordance with the approved details and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following commencement of the development hereby approved. Any tree, shrub or other plant identified in the landscaping scheme dying within 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity.

**Signature(s):** Deirdre Laverty

**Date:** 20 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	27 October 2022
<b>Date First Advertised</b>	10 November 2022
<b>Date Last Advertised</b>	10 November 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Roads Consultation Full approval.docx	
<b>Drawing Numbers and Title</b>  Site Location Plan    Plan Ref: 01 Site Layout or Block Plan    Plan Ref: 02 Proposed Plans    Plan Ref: 03	
<b>Notification to Department (if relevant)</b>  Not Applicable	

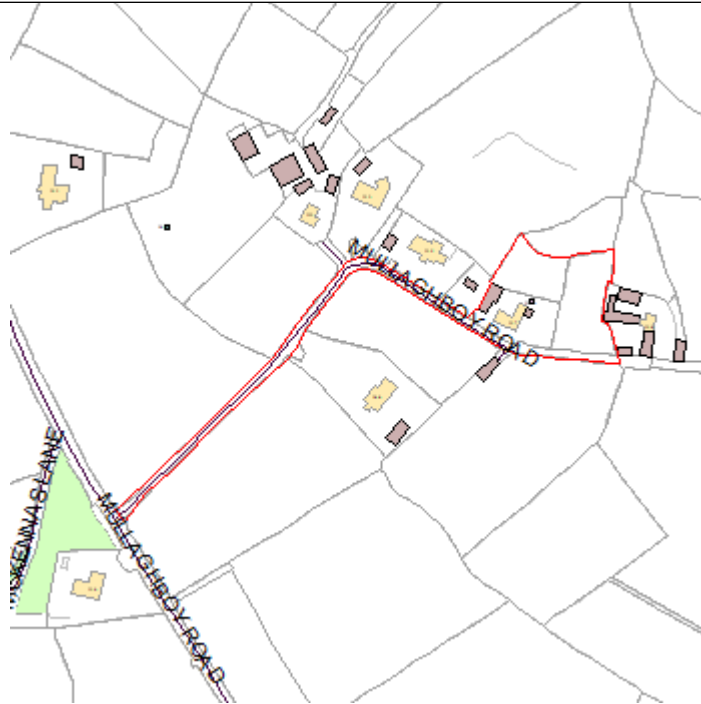


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 7 February 2023	<b>Item Number:</b> 5.29
<b>Application ID:</b> LA09/2022/1623/F	<b>Target Date:</b> 2 March 2023
<b>Proposal:</b> Proposed change of house type and relocation of extant planning approved (REF: LA09/2018/1657/F) Two storey dwelling. Curtilage to be extended with garage to remain as previously approved.	<b>Location:</b> Site between 117 and 119 Mullaghboy Road Bellaghy Magherafelt
<b>Referral Route:</b> Approve is recommended	
<b>Recommendation:</b> Approve	
<b>Applicant Name and Address:</b> Bronagh And Paul Doherty C/O 117 Mullaghboy Road Bellaghy Magherafelt BT45 8JH	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>  The applicant has declared a Council Employee interest. It is provided in the P1 form that Roisin McAllister who works for the Planning Department of MUDC is a sister in law to the applicant. This application is therefore brought to the Planning Committee.	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response

### Representations:

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

### Summary of Issues

The applicant has declared a Council Employee interest. It is provided in the P1 form that Roisin McAllister who works for the Planning Department of MUDC is a sister in law to the applicant. This application is therefore brought to the Planning Committee.

### Characteristics of the Site and Area

The site of the proposed development is located in the rural countryside approximately 1.5 miles north west of the Bellaghy settlement limit, as defined in the Magherafelt Area

Plan 2015. Access to the site is via the Mullaghboy Lane, a 400m long shared laneway which provides access to 7 other dwellings located along this stretch. Much of the site consists of a 0.13 hectare agricultural field (site for dwelling) wedged between no. 117 Mullaghboy Lane to the west and no. 119 to the east. The site levels, both in this field and to the rear of no. 117 drop away very sharply. Site boundaries are marked by hedging along the western, northern and eastern sides of the field, with some scatterings of young trees to the northern and eastern edges. There is also picket fencing to all sides of the field. The surrounding environment consists mostly of agricultural fields. There are currently 7 dwellings located along the Mullaghboy Lane, as well as a degree of farm buildings and sheds.

### **Description of Proposal**

This is a full application for the proposed change of house type and relocation of extant planning approved (Ref. LA09/2018/1657/F) Two storey dwelling. Curtilage to be extended with garage to remain as previously approved. The previous approval was for a two storey dwelling and garage (on a farm).

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

#### **Policy Consideration**

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

#### **Relevant Histories**

LA09/2018/1657/F – Proposed two storey dwelling and garage (on a farm) – Adjacent to 117 Mullaghboy Road Bellaghy Magherafelt – Permission Granted – 17/05/19.

#### **Representations**

No third party representation have been received to date.

#### **Magherafelt Area Plan 2015**

The site of the proposed development is located in the rural countryside approximately 1.5 miles north west of the Bellaghy settlement limit, as defined in the Magherafelt Area Plan 2015.

#### **Other Constraints**

This site is not located within or adjacent to any protected areas, including SACs, SPAs and Ramsar sites.

This site is not located within or adjacent to any listed buildings / structures.

#### Mid Ulster District Council Draft Plan Strategy 2030

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

#### SPPS – Strategic Planning Policy Statement for Northern Ireland

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

#### Planning Policy Statement 21: Sustainable Development in the Countryside

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a dwelling on a farm and therefore must be considered against Policy CTY 10 of PPS21. The principle of development for a farm dwelling has been established in the previous approval (ref. LA09/2022/1623/F). This current application is a proposed change of house type and relocation of that previous approval. The agent has provided that the applicant did not wish to re-submit farm information for DAERA in this current application. Following a discussion with the senior planner, it was agreed that if permission is granted, the timeframe condition can be tied into the original approval.

With regards to the new siting I am content that the proposed dwelling will be sited to visually link with the existing farm dwelling (no. 117) and agricultural buildings / sheds (including approved garage under LA09/2018/1657/F) which are adjacent to and west of the siting area. Upon review of the farm lands and landform this is deemed the most suitable site. With this in mind I am content that the application complies with CTY 10.

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. The proposed is a two storey dwelling. However, given the proposed siting area for the dwelling and the existing site levels, which drop sharply from the laneway, the dwelling will not appear as a two-storey dwelling and thus will not be a prominent feature in the landscape. The site is also equipped with long established



natural boundaries, marked by hedging along the western, northern and eastern sides of the field, with some scatterings of young trees to the northern and eastern edges. In terms of design, the proposed is of a traditional design with modern elements. Proposed finishes include smooth render painted white with natural stone cladding to walls and blue/black roof slates. I consider the design appropriate for the site and its locality. I am content that the proposed is visually linked with the farm dwelling and agricultural buildings (as described above). Given all of the above, I am Content that the application complies with CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape. It is considered that the site and its environs are suitable for absorbing a dwelling of this size and scale. I am content that there is unlikely to be any adverse impact to the rural character of the area as such I am content that the application complies under CTY 14.

#### Planning Policy Statement 3: Access, Movement and Parking

DfI Roads were consulted in the previous extant planning approval (ref. LA09/2018/1657/F). Given that the existing access onto the road is being reused with no alterations, a consultation response is not required from DfI Roads. It has been agreed with the senior planner that the previous roads condition for planning approval ref. LA09/2018/1657/F be tied in with this application, should permission be granted.

I have no ecological or residential amenity concerns.

#### **Summary of Recommendation:**

Approve is recommended

#### Approval Conditions

##### Condition 1

The development hereby permitted shall be begun before the 17th May 2024, which is the expiration of planning approval LA09/2018/1657/F.

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

##### Condition 2

The vehicular access including visibility splays of 2.4 x 90metres and any forward sight distance, shall be provided in accordance with Drawing No 17 bearing the date stamp 29

March 2019 of planning approval ref. LA09/2018/1657/F, prior to the commencement of any other development hereby permitted. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Condition 3**

All landscaping comprised in the approved details of landscaping on Drawing No. 02 bearing the date stamp 17 Nov 2022, 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.

**Signature(s):** Benjamin Porter

**Date:** 25 January 2023

<b>ANNEX</b>	
<b>Date Valid</b>	17 November 2022
<b>Date First Advertised</b>	29 November 2022
<b>Date Last Advertised</b>	29 November 2022
<b>Details of Neighbour Notification (all addresses)</b> The Owner / Occupier 109A Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 109 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 111 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 113 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 115 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 119 Mullaghboy Road Bellaghy Londonderry BT45 8JH The Owner / Occupier 117 Mullaghboy Road Bellaghy Londonderry BT45 8JH	
<b>Date of Last Neighbour Notification</b>	30 November 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1623/F Proposals: Proposed change of house type and relocation of extant planning approved (REF: LA09/2018/1657/F) Two storey dwelling. Curtilage to be extended with garage to remain as previously approved. Decision: Decision Date:  Ref: H/1984/0373 Proposals: ALTERATIONS AND ADDITIONS TO HOUSE Decision: PG Decision Date:	

Ref: H/1978/0245

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

Ref: LA09/2022/0714/O

Proposals: Dwelling and domestic garage

Decision:

Decision Date:

Ref: H/1996/6006

Proposals: SITE OF DWELLING MULLAGHBOY ROAD BELLAGHY

Decision: QL

Decision Date:

Ref: H/2003/0883/O

Proposals: Site of dwelling.

Decision:

Decision Date:

Ref: H/2012/0062/O

Proposals: Proposed two storey farm dwelling with domestic garage

Decision: PG

Decision Date: 01-MAY-12

Ref: H/2011/0364/F

Proposals: Replacement of Existing Two Storied Vacant Dwelling with new 1 1/2 Storey Dwelling House with Associated Carport and Garage

Decision: PG

Decision Date: 14-NOV-11

Ref: H/1998/0578

Proposals: DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: H/1996/0333

Proposals: DWELLING AND GARAGE

Decision: PG

Decision Date:

Ref: LA09/2018/1657/F

Proposals: Proposed two storey dwelling and garage (on a farm)

Decision: PG

Decision Date: 17-MAY-19

Ref: LA09/2016/1380/F

Proposals: Proposed 2 storey farm dwelling

Decision: PG

Decision Date: 09-MAR-17

Ref: H/2013/0143/F

Proposals: Two storey extensions to the front of existing dwelling and single storey side extension

Decision: PG

Decision Date: 01-JUL-13

Ref: H/2014/0378/F

Proposals: Replacement dwelling

Decision: PG

Decision Date: 19-JAN-15

Ref: H/1980/0139

Proposals: ALTERATIONS AND ADDITIONS TO HOUSE

Decision: PG

Decision Date:

### **Summary of Consultee Responses**

-

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

Levels and Cross Sections Plan Ref: 02

Elevations and Floor Plans Plan Ref: 03

### **Notification to Department (if relevant)**

Not Applicable





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2019/0768/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).	<b>Location:</b> Lands 70m West of 33 Kanes Rampart Coalisland BT71 4QY
<b>Applicant Name and Address:</b> Barran Yennie Peat Products 33 Kanes Rampart Coalisland BT71 4QY	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Summary of Issues:</b>  This application is for retention of storage yard and sheds at an existing peat processing facility. The site has increased in area since 2010 and the proposal is for expansion of the existing business.	
<b>Summary of Consultee Responses:</b> DFI Rivers - development not inside 1 in 100 year flood area	
<b>Characteristics of the Site and Area:</b>  The site is located in the open countryside just a short distance to the south west of Lough Neagh and north of the M1 motorway. The settlement limits of Annaghmore is approx. 4km to the North west and it lies outside all other areas of constraint as depicted by the DSTAP 2010.  The red line of the site includes a long narrow laneway off Kanes rampart and leads to the dwelling and garage at number 33. Included within the red line there are two other buildings located relatively close to the dwelling and then two larger buildings located along the rear boundary somewhat removed from the dwelling site. There is also a large	

hard cored yard area, a storage area which at the time of site visit was packed on one side with peat mounds and on the other with what appeared to be the finished peat bales.

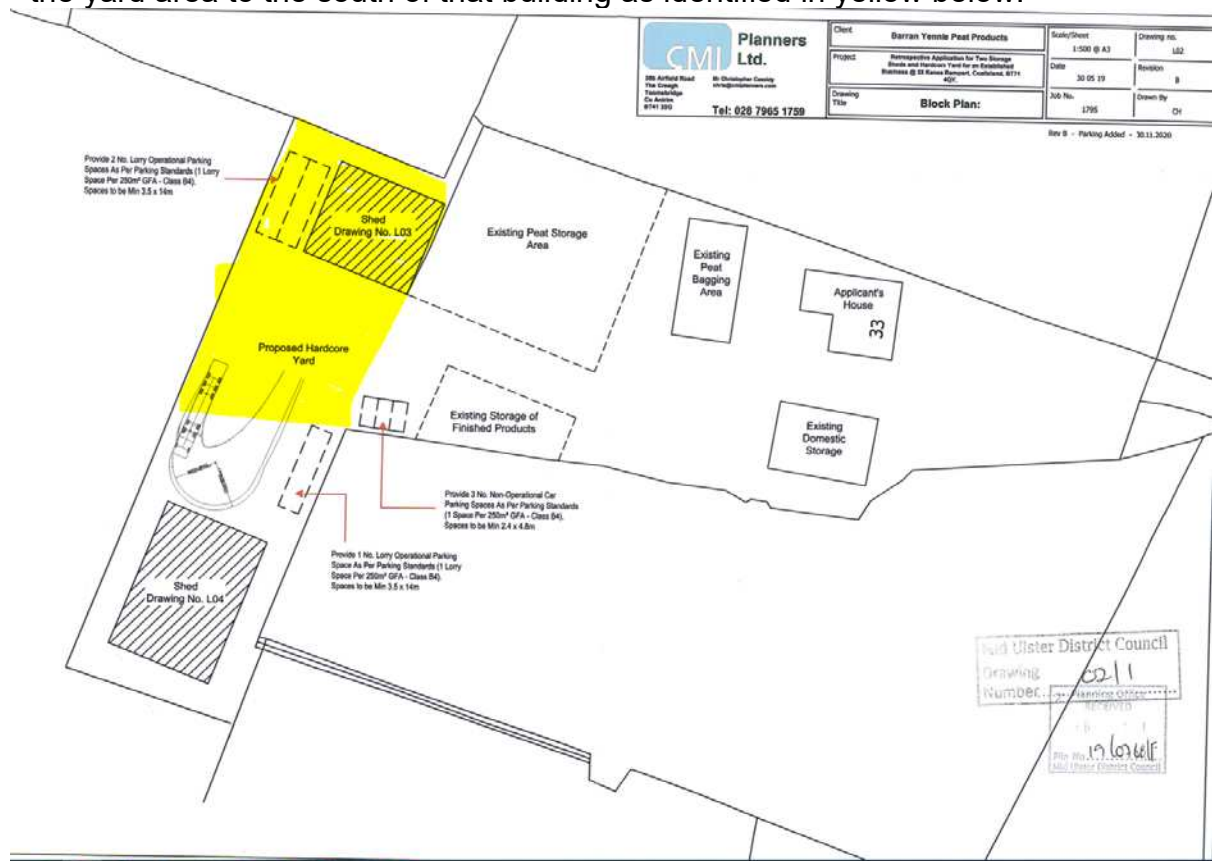
### Description of Proposal

The proposal seeks full planning permission for the retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).

### Deferred Consideration:

This application was before the Planning Committee in April 2021 and it was agreed to defer to allow a meeting with the Planning Manager. At a meeting held on 22 April 2021 the applicants advised the existing building to the north has been in situ for over 5 years and part of the yard also. An enforcement notice issued on 28 April 2021 in relation to change of use of land from agricultural use to commercial processing and storage of peat, erection of 2 buildings, laying of concrete and hardcore for commercial processing and storage of peat was appealed to the Planning Appeals Commission. The Commission decision issued 17 August 2022 quashed the notice in relation to:

- the building identified as shed Drawing No, L03 on drawing 02/1 received 30 APR 2021 and
- the yard area to the south of that building as identified in yellow below.



The quashing of this part of the notice means the building and yard are lawful because the operational development was immune from enforcement action and the notice as varied granted planning permission for the use of the building and yard for the commercial processing and storage of peat.



This application currently before the Council is now in relation to the building identified as Shed Drawing No. L04 on drawing No 02/1 (16.0m x 25.0m) and the remainder of the hardcored yard area (circa 800sqm when the building is removed from it). As this is an expansion of an established economic site, PED3 and PED 9 are the policies that should be considered. PED3 allows for expansion provided the scale and nature do not harm the rural character or appearance of the local area. New buildings are also permitted where they are in proportion to the existing buildings on site and will integrate as part of the overall scheme.

The existing and approved site area is approx. 3800sqm, this proposal is for approx. 1270sqm expansion of the site area, This is less than 1/3 increase of the approved site area. I do not consider this to be a major expansion of the site. The development is set well back from any public views and the building is similar in appearance and scale to the others on the site. While the ridge height of building No L04 is 7.3m above finished floor area, it is on lower ground than the other buildings and is not prominent in the local landscape as can be seen below.



I consider the proposal meets with PED3 for the expansion of this established economic development use.

PED9 sets out a number of other criteria to be considered and in respect of these it is noted the proposal is beside other commercial activities, and the closest residential development is the applicant's property. The nearest 3<sup>rd</sup> party property is 100m to the south east and with no openings on the buildings elevation facing towards them, it is unlikely they will be adversely affected. No flooding issues have been identified on the site and there are no archaeological, heritage or ecological interests noted on the site. The site has ample area for parking and turning of vehicles and the access onto Kanes Rampart uses an existing land and sight lines can be provided as required. The site is located in the rural area which is primarily accessed by private car though the local road network does support cycling and walking. As advised above the proposed development is well integrated into the landscape and areas of open storage are well screened from view by

the existing buildings on the site. The development is located beside the applicants own property so they can provide security. The proposal is located beside the bog which provides habitat for biodiversity and was improved agricultural land so I do not consider it has resulting the loss of any biodiversity or habitat. Members could request additional landscaping however the proposal is well screened by other development that it does not, by itself have any adverse impacts on the rural character.

As this is already carried out and meets with the policies for expansion of established economic development I recommend it is approved.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any determining weight.

#### **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.

2. Within 3 weeks of the date of this decision the vehicular access including visibility splays of 2.4mx 60.0m shall be provided in accordance with the details as shown on drawing No 05 bearing the stamp dated 31 JAN 2020. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: In the interests of road safety

**Signature(s)**

**Date:**



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/0768/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).	<b>Location:</b> Lands 70m West of 33 Kanes Rampart Coalisland BT71 4QY
<b>Referral Route:</b> Contrary to Policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Barran Yennie Peat Products 33 Kanes Rampart Coalisland BT71 4QY	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

No representations were received

### Characteristics of the Site and Area

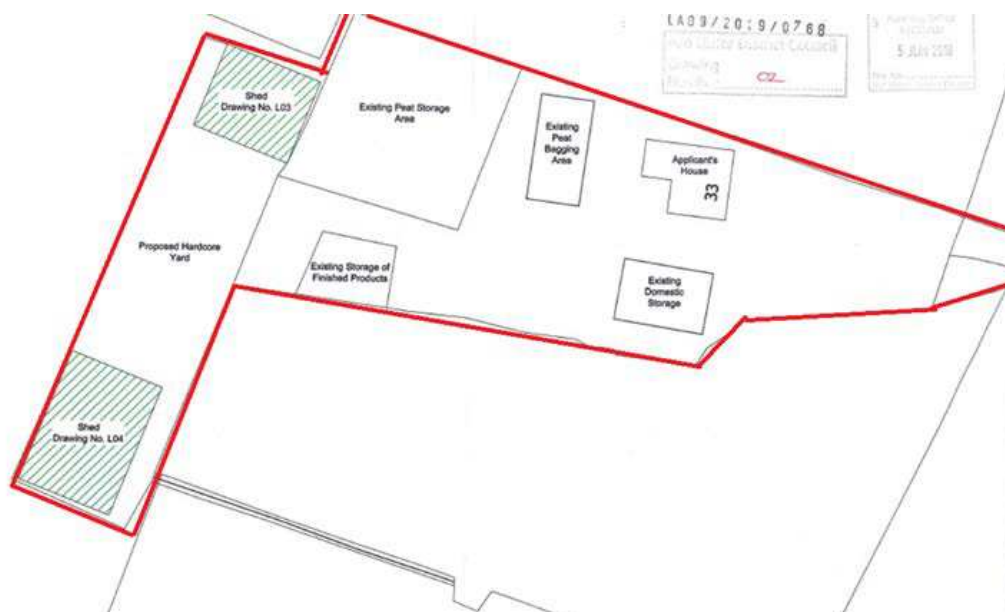
The site is located in the open countryside just a short distance to the south west of Lough Neagh and north of the M1 motorway. The settlement limits of Annaghmore is approx. 4km to the North west and it lies outside all other areas of constraint as depicted by the DSTAP 2010.



The red line of the site includes a long narrow laneway off Kaners rampart and leads to the dwelling and garage at number 33. Included within the red line there are two other buildings located relatively close to the dwelling and then two larger buildings located along the rear boundary somewhat removed from the dwelling site. There is also a large hard cored yard area, a storage area which at the time of site visit was packed on one side with peat mounds and on the other with what appeared to be the finished peat bales.

### Description of Proposal

The proposal seeks full planning permission for the retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products).





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

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

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

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

DSTAP 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 4: Planning and Economic Development

Planning Policy Statement 21: Sustainable Development in the Countryside

### **Relevant Histories**

M/1988/0097 - CHANGE OF USE FROM AGRICULTURAL SHED TO PEAT PROCESSING BUILDING - GRANTED

### **Relevant Enforcement History on Site**

LA09/2017/0113/CA - Unauthorised Commercial Peat Extraction ? (Enf action being pursued)

LA09/2019/0039/CA ? Unauthorised buildings, yard area & modular dwelling.(Receipt of application)

### **Representations**

No objections have been received

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

The site lies outside any settlement limit defined in the DSTAP 2010, it is in close proximity to Lough Neagh, and a short distance to the North of the M1 motorway. I do not consider the proposal impacts on the either of the above 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 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.

### **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** to be relevant, as we can see from the previous planning history on the site as well as ortho-photography that peat processing has been carried out at this site for over 30 years.

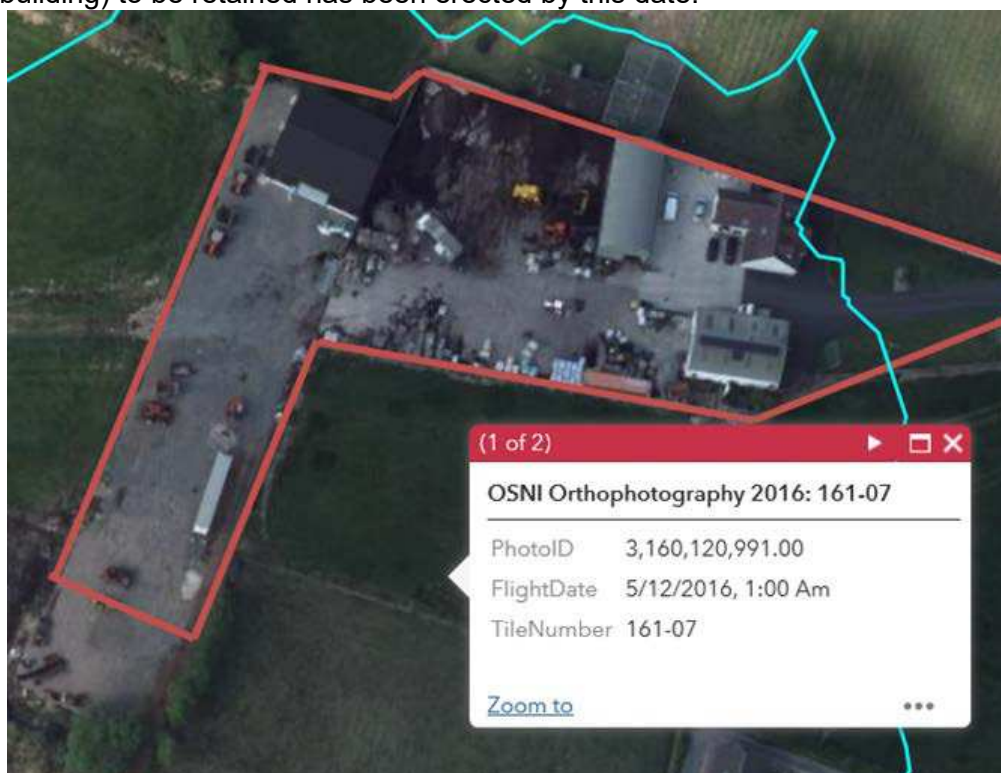
This proposal is for the retention of two storage sheds and yard associated with an established business 'Barren Yennie Peat' (established circa 1988) and as such I consider this is the expansion of an established economic development use, as such the provisions of Policy PED 3 apply.

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.

The red line of the site not including the portion to the rear which is to be retained is approx. 1.2 acres. The portion to be retained at the rear of the site includes a 0.7acre increase in area. This equates to an approximate 60% site growth which in my opinion is a major increase

In addition the two buildings to be retained measure 715m<sup>2</sup> floor space combined and would represent the two most dominant buildings now on the site when compared with the much smaller existing buildings.

Aerial photographs of the site from May 2016 (see below) indicate that one of the buildings (most northern building) to be retained has been erected by this date.



The more recent Orthophotography from the site dated May 2019 show that at this point both sheds have been erected. NB. It also shows an additional shed has been erected which the applicant has falsely indicated as existing on the plans. (indicated by yellow arrow)



The proposal is for the retention of a building with a floor space of approx. 715sqm in area. Views of the building from the surrounding public road network are limited and the building are seen at the rear of the site with a number of other buildings screening the views. I do not have any major concerns regarding the building integrating into its surroundings.

Due to the size of the proposed expansion, I consider the proposal does represent a major increase in site area and therefore does not comply with PPS4 PED 3.

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 does:

- this proposal is considered compatible with the surrounding land uses given the existing use for peat processing established 1988.

- The building is located within the existing yard, there may be issues relating to noise due to works within the buildings, 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.

- The site is not located in an area at risk of flooding and i am content it should not cause or exacerbate flooding in line with Planning Policy Statement 15: (Revised) Planning and Flood 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 site.
- As the site is located within a rural area, a movement pattern providing acceptable links to public transport was not necessary.
- The buildings do not include any new landscaping or infrastructure, it is of an appearance that is not out of place in this type of industrial environment.
- 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.

#### **Other considerations**

DFI roads have been consulted a number of times and have requested a Transport Assessment Form to be submitted on three occasions. This information has not been submitted despite being sought on numerous occasions over a long period of time. DFI Roads requesting the parking to be shown and kept in line with PPS3 parking standards. However, despite the repeated requests for this information, at the time of writing this is still outstanding. It is my opinion that this info should be allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as this information is material to the determination of this application.

#### **Recommendation**

Taking account if all of the policy considerations above and the lack of information, I consider this proposed development cannot be considered to meet PED3 of PPS4 and cannot be approved.

**Neighbour Notification Checked**

**Yes**

#### **Refusal Reasons**

1. The proposal is contrary to Planning Policy Statement 4, Industrial Development and Policy PED 3 - Expansion of an Existing Industrial Development in the Countryside, in that the development would, if permitted, have an adverse impact on the environment by virtue of the significant increase in the site area of the enterprise.

2. Having notified the applicant under Article 7 (4) of the Planning (General Development) Order (Northern Ireland) 1993 that further details regarding access and parking arrangements were allowed the Council to determine the application, and having not received sufficient information, the Council refuses this application as it is the opinion of the Council that this information is material to the determination of this application.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	6th June 2019
<b>Date First Advertised</b>	20th June 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 11 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 23b , Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 27 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 27a Kanes Rampart Coalisland The Owner/Occupier, 29 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 33 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 39 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 47 Kanes Rampart, Coalisland, Tyrone, BT71 4QY	
<b>Date of Last Neighbour Notification</b>	18th June 2019
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/0768/F Proposal: Retention of two storage sheds and yard associated with an established business (Barren Yennie Peat Products). Address: Lands 70m West of 33 Kanes Rampart, Coalisland, BT71 4QY, Decision: Decision Date:  Ref ID: M/1995/0316 Proposal: Extension to dwelling Address: 33 KANES RAMPART DERRYLOUGHAN COALISLAND Decision: Decision Date:  Ref ID: M/1988/0097	

Proposal: CHANGE OF USE FROM AGRICULTURAL SHED TO PEAT PROCESSING BUILDING

Address: 33 KANES ROAD, DERRYLOUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1986/0412

Proposal: IMPROVEMENTS TO DWELLING

Address: 33 KANES ROAD, DERRYLAUGHAN, COALISLAND

Decision:

Decision Date:

Ref ID: M/1996/0665

Proposal: Erection of dwelling

Address: APPROX 80M SE OF 23 KANES ROAD DERRYLAUGHAN COALISLAND

Decision:

Decision Date:

Ref ID: M/2002/0012/O

Proposal: Proposed domestic dwelling

Address: 100m S.W. of 23 kanes Rampart Derrylaughlan, Coalisland, Co. Tyrone

Decision:

Decision Date: 06.03.2002

#### **Drawing Numbers and Title**

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

#### **Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2019/1051/O	<b>Target Date:</b> 27 September 2019
<b>Proposal:</b> Proposed site for a dwelling and domestic garage. Based on policy CTY10 (dwelling on a Farm)	<b>Location:</b> Approx 80M South Of 103 Moyagall Road Magherafelt
<b>Applicant Name and Address:</b> Mr Conor O'Neill 103 Moyagall Road Magherafelt	<b>Agent name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The proposed site is identified as lands approximately 80m south of 103 Moyagall Road, Magherafelt, which is located in the open countryside, outside any settlement limits as per the Magherafelt Area Plan 2015. The site is accessed via an existing laneway from the Moyagall Road. Several farm buildings are situated 75m SE of 103, which is the principle farm dwelling. The topography is relatively flat and land that runs parallel with the Moyagall Road is approximately 0.5 of a meter below road level. This part of the field is water logged and appears to be boggy type soil. The proposed site is set back approximately 75m from the public road and is accessed by an existing lane. The site forms a portion of an agricultural field that has established boundaries to the east and south consisting of thick vegetation and post and wire fencing. The other boundaries are undefined and open onto the field.  The surrounding area is characterised by undulating countryside where the predominant land uses are of an agricultural nature interspersed with residential dwellings. The A42 is classified as a protected, which the farm and proposed site has direct access onto the road.	



**Description of Proposal**

Outline planning permission is sought for a dwelling and domestic garage on an existing farm in accordance with Policy CTY 10 of PSS 21. The applicant has served P2A notice on the land owner in connection with third party lands concerning sight splays. DFI Roads have objected to this application.

**Deferred Consideration:**

This application was presented before the Planning Committee in November 2021 with a recommendation to refuse based on inadequate sight splays and the intensification of an access onto a protected route. The application was deferred for an office meeting which took place on 17 November 2021.

Following the office meeting a further consultation took place with DfI Roads on amended plans that had been received. In their response Roads accept the applicant has now indicated sightlines within the red line of the site. However, they consider the application is still contrary to PPS 3, Policy AMP 3 as it would result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety. They have attached suggested conditions if MUDC are satisfied PPS 3 and DCAN 15 can be complied with.

Having considered the previous response from Roads, which required 2.4m x 160m sightlines, the agent has now submitted a plan which shows these sightlines and although the applicant does not own all the required lands he has served the requisite notice on the landowners and no objections have been received. I therefore consider the first reason for refusal has been overcome.

The second reason refusal pertaining to the intensification of a substandard access onto a protected route has been addressed, in part, by the applicant as the required sightlines can be delivered within his control. AMP 3 of PPS 3 allows for an access to a protected route where it is for a farm dwelling and that farm dwelling meets policy CTY 10 of PSS 21 and access cannot reasonably be obtained from an adjacent minor road. Where such an access is not achievable a proposal will be required to make use of an existing vehicular access onto the Protected Route. In this case there is an existing farm lane which is used by agricultural vehicles, and possibly other vehicles to serve the land.

I consider the application now satisfies the requirements of PPS 3 and I recommend an approval subject to the conditions below.

**Conditions/Reasons for Refusal:****Approval Conditions****Condition 1**

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

- i. the expiration of 5 years from the date of this permission; or

ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

**Condition 2**

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

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

**Condition 3**

C01 - A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

**Signature(s):**Karen Doyle

**Date:** 23 January 2023






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

**Development Management Officer Report  
 Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2019/1051/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and domestic garage. Based on policy CTY10 (dwelling on a Farm)	<b>Location:</b> Approx 80m South of 103 Moyagall Road Magherafelt
<b>Referral Route:</b>  DFI Roads refusal contrary to PPS 3 Policies	
<b>Applicant Name and Address:</b> Mr Conor O'Neill 103 Moyagall Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>  Gerard Lynch	



Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division (HED)	Content
Non Statutory	NI Water - Single Units East - Planning Consultations	Substantive Response Received
Non Statutory	DAERA - Coleraine	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	Rivers Agency	Substantive Response Received
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
Contrary to Planning Policy AMP 2 & AMP 3		

### Characteristics of the Site and Area

The proposed site is identified as lands approximately 80m south of 103 Moyagall Road, Magherafelt, which is located in the open countryside, outside any settlement limits as per the Magherafelt Area Plan 2015. The site is accessed via an existing laneway from the Moyagall Road. Several farm buildings are situated 75m SE of 103, which is the principle farm dwelling. The topography is relatively flat and land that runs parallel with the Moyagall Road is approximately 0.5 of a meter below road level. This part of the field is water logged and appears to be boggy type soil.

The proposed site is set back approximately 75m from the public road and is accessed by an existing lane. The site forms a portion of an agricultural field that has established boundaries to the east and south consisting of thick vegetation and post and wire fencing. The other boundaries are undefined and open onto the field.

The surrounding area is characterised by undulating countryside where the predominant land uses of an agricultural nature interspersed with residential dwellings. The A42 is classified as a protected, which the farm and proposed site has direct access to the road.

### Description of Proposal

Outline planning permission is sought for a dwelling and domestic garage on an existing farm in accordance with Policy CTY 10 of PSS 21. The applicant has served P2A notice on a third party landowner in connection with lands concerning sight splays. DFI Roads have objected to this application.

### Statutory consultees

1. DFI Roads were consulted on 16/08/2019 and responded on 05/09/2019 raised objections;
2. DAERA were consulted on 16/08/2019 and responded on 29/08/2019 providing advice;
3. Historic Environment Division - Historic Monuments (HM) and responded on 19/08/2019 indicating it was content with the proposal.

### Planning History

Reference	Location	Proposal/Complaint	Status	Date
LA09/2019/1051/O	Approx 80m South of 103 Moyagall Rd	Proposed site for a dwelling and domestic garage. Base	VALID APPLICATION RECEIVED	
H/2004/0472/O	220m South East of 102 Moyagall Rd	Site of dwelling and garage.	PERMISSION REFUSED	24.11.2005

### 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 one (1) Statutory objection was received on 05/09/2019. The application was initially advertised WC 26/08/2019 (Publication date 27/08/2019). Five (5) neighbouring properties were notified on 15/06/2020; 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

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

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030- Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 3 Access, Movement and Parking,

PPS 15 Rivers;

PPS 21 Sustainable Development in the Countryside (CTY1, CTY10, CTY13, CTY14)

**Supplementary Planning Guidance:** Building on Tradition:- A Rural Design Guide for N Ireland.

The site is located in the open countryside as defined by the Magherafelt Area Plan 2015. There are no other designations on the site. Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 allows for a single dwelling on a farm subject to the policy tests laid down in policy CTY 10. This requires the applicant to provide evidence of an active farm business, established for at least 6 years.

The Department for Agriculture, Environment and Rural Affairs (DAERA) confirms that the Business ID number (627630) was issued to the applicant's father on 24/05/1995. From this I am content the applicant has an established farm business and has been in existence for over 6 years.

DAERA in its initial consultation response indicated the farm is located on land associated with another farm business. It is noted the farm business does not claim any agricultural grants such as Single Farm Payment, less favoured area compensatory allowance or Agri Environment scheme.

The agent has submitted several invoices that showed that the farm has been active and demonstrates an active farm business and is kept in a good environmental condition. I have documented these in the following table.

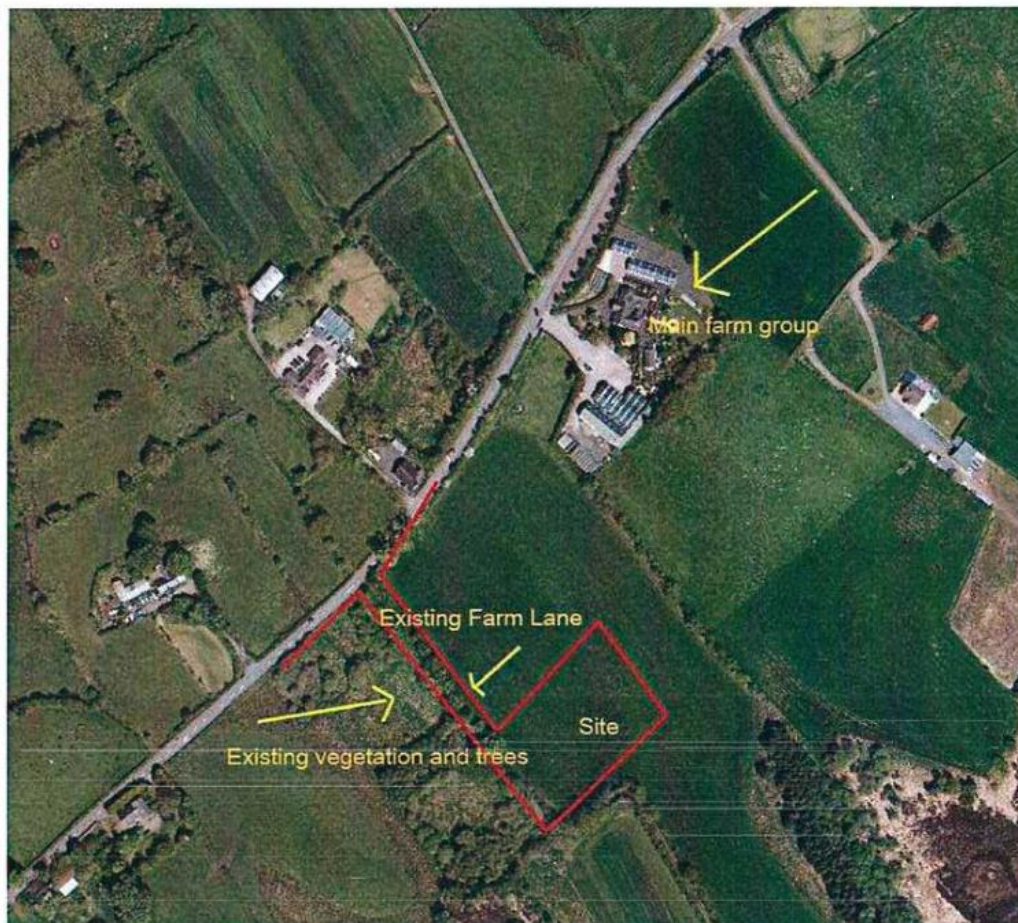
Conor O'Neill			
LA09/2019/1051/O			
Date	Invoice No	Works	£
04/04/2014	18	Hedge cutting	150
08/04/2014	4	Fertilizer	187
04/11/2014	399252	Cattlefeed	196
02/03/2015	23	Hedge cutting	150
15/10/2021	399268	Cattlefeed	203
02/03/2016	31	Fertilizer	196
25/03/2016	31	Hedge cutting	160
10/10/2016	399280	Cattlefeed	209
06/03/2017	44	Hedge cutting	170
02/08/2017	874226	Post & fencing	213
24/11/2017	399284	Cattlefeed	223
22/01/2018	56	Hedge cutting	170
05/03/2018	44	Fertilizer	202
27/11/2018	399291	Cattlefeed	237
14/03/2019	64	Hedge cutting	170
04/03/2019	399299	Cattlefeed	263
10/02/2020	76	Hedge cutting	180

Fig. 1 Invoices relating to the applicant's farm business



Fig. 2 Existing farm lane and sight lines Moyagall Road





**Fig. 3 Aerial overview map**

I am fully satisfied from my site observations and assessing the evidence and comments received back from DAERA that the applicant is in control of an active farm business, which is associated with another farm business on this basis criteria (a) of Policy CTY 10 of PPS 21 has been met.

It appears that no dwellings or development opportunities have been sold off from the farm holding within 10 years of the date of the application. With the exception of this planning application, no planning applications have been made in respect of land within the farm holding in the last 10 years and so criteria b has been met.

DAERA flood maps indicate surface water in some of the fields that partly surrounds the farmyard and also abuts the Mayogall Road. Rivers Agency were consulted on this application and confirmed the site does not lie within the 1 in 100 year fluvial or 1 in 200 coastal flood plain.

During my site visit I observed the fields that abut the public road were approx. 0.5m below road level.

Following group discussions and a second site visit by a senior planner it was considered the proposal was acceptable in terms of visual links with the main farm group also the proposed



dwelling would access of an existent lane. In terms of integration the level of existent vegetation would strengthen overall integration of the site enabling it to have the capacity to absorbed a modest dwelling.

The agent has a flood risk area hatched in yellow annotated on the site location plan as such Rivers Agency were consulted on this application and responded on 01/07/2020 and confirmed the site does not lie in Fluvial Flood Plains. Although i suspect that Rivers assessed only the site outlined in red and not the area hatched in yellow per site location plan.

The agent did not provide any alternative site suggestions however it is my considered opinion the site can accommodate development that would sympathetically visual with the established group of farm buildings, the access comes off an existing farm lane. Therefore the proposal complies with the key policy tests of CTY 10 in accordance with criteria a, b and c..

Policy CTY 13 provides guidance on the integration and design of buildings in the countryside and CTY 14 provides guidance on rural character. The new building blends sympathetically with the existing surroundings and will therefore, not be unduly prominent in the landscape. The site provides a suitable degree of enclosure for integration and the building blends with the existing features, such as the trees which provide an effective backdrop. Furthermore, the design of the building is appropriate for the site and locality. I am also content that the dwelling will not cause a detrimental change to the rural character of the area, as it respects the traditional pattern of settlement exhibited in the area and will not result in a suburban style build-up of development or create or add to a ribbon of development.

The proposal accords with the policy requirements of PPS 21, therefore I recommend approval for this development.

However, DFI Roads were consulted on 16/08/2019 and responded on 05/09/2019. They also highlighted that the sightline on the north east side of the lane indicates a blind spot within the sightline. The agent was made aware of this and advised to amend in accordance with DCAN 15.

In its initial response Roads indicate the access is unto a protected route A 42 Moyagall Road and as such PPS 3 AMP 2 and AMP 3. The agent addressed Road concerns requiring third party lands to provide sightline on the north east side of the lane.

Following discussions between the agent and Roads their refusal reasons are unchanged that the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP2, would, if permitted, prejudice the safety and convenience of road users.

In respect of the second reason that the proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP3 that would result in the intensification of use of an existing substandard access onto a Protected Route and would as a result prejudice the free flow of traffic and conditions of general safety.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

1. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 2, in that it would, if permitted, prejudice the safety and convenience of road users since it proposes to intensify the use of an existing access at which visibility splays of (2.4 metres x 160 metres) cannot be provided in accordance with the standards contained in the Department's Development Control Advice Note 15.

2. The proposal is contrary to Planning Policy Statement 3, Access, Movement and Parking, Policy AMP 3, in that it would, if permitted, result in the intensification of use of an existing substandard access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	2nd August 2019
<b>Date First Advertised</b>	27th August 2019
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 102 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 102a ,Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 104 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 106 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ The Owner/Occupier, 82 Mayogall Road, Gulladuff, Londonderry, BT45 8PJ	
<b>Date of Last Neighbour Notification</b>	15th June 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2019/1051/O Proposal: Proposed site for a dwelling and domestic garage. Based on policy CTY10 (dwelling on a Farm) Address: Approx 80m South of 103 Moyagall Road, Magherafelt, Decision: Decision Date:  Ref ID: H/2004/0472/O Proposal: Site of dwelling and garage. Address: 220m South East of 102 Mayogall Road, Knockloughrim. Decision: Decision Date: 24.11.2005	
<b>Summary of Consultee Responses</b>  DFI Roads advised that the proposal be refused under Policy AMP2 & AMP3 of PPS 3	
<b>Drawing Numbers and Title</b>	



Drawing No. 01 (Rev-1)  
Type: Site Location Plan  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0213/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed restructuring and alterations of vehicular access	<b>Location:</b> 18 Cookstown Road Dungannon
<b>Applicant Name and Address:</b> Mr Barry O'Neill 18 Cookstown Road Dungannon	<b>Agent Name and Address:</b> McKeown And Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Summary of Issues:</b>  This application is for improvements to this sub standard access. The access is to a rural industrial estate that has enforcement notices issued and in effect. Granting permission for this access improvement will not grant permission for any other development in the industrial estate but will allow the applicant to provide some improvements.	
<b>Summary of Consultee Responses:</b> DFI Roads - note the previous appeals o the site and that if Council were to refuse then offers reason to refuse	
<b>Characteristics of the Site and Area:</b> The application site is located at 18 Cookstown Road, Dungannon within the Dungannon Green Belt and outside any settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The application site incorporates land at the existing access point of No. 18 onto the existing public road and land along the roadside to the north and south of the access which is required to provide improvements to the existing visibility splays. There are a number of buildings and businesses located adjacent and west of the site, most seem to be used for storage, however uses are mixed and include retail and industrial. The wider surrounding context is predominantly rural in character with green	

fields, as well as dispersed dwellings, farm holdings and industrial works in proximity. The site is accessed via the A29 protected route.

### **Description of Proposal**

The proposal seeks full planning permission for the proposed restructuring and alterations of vehicular access, to provide visibility splays of 4.5m by 120m to the south and 2.4m by 100m to the north.

### **Deferred Consideration:**

This application was before the Planning Committee in October 2020 and the determination of this application has been held pending the outcome of an enforcement appeal against an unauthorised building on the site. The Commission upheld the notice requiring the removal of the unauthorised building on the site on 14 June 2022 and this notice is now in effect.

This proposal is a stand alone application to improve the vehicular access onto the A29 Cookstown Road, which is a Protected Route. It has long been held this access is sub standard as set out in PAC Decision 2017/E0050 which related to an unauthorised dance studio and vehicle repairs at this site. At that appeal it was concluded the sight lines required for a safe access to comply with DCAN 15 are 4.5m x 120m in both directions. The applicants have advised they are unable to obtain these and so the appeals have been lost.

This application proposes to improve the access by providing sight lines of 2.4m x 100.0m to the north (towards Cookstown) and 4.5m x 120.0m to the south (towards Dungannon). This still remains sub standard to the north, as the sight lines required are also 4.5m x 120.0m. This proposal does not meet the standard required to allow the intensification of the use of the access, however it will, in my opinion, provide an improvement to the access to the existing lawful development on the site. To provide the north sight line will require the regrading of the existing slopes and removal of vegetation. I consider it necessary to seek the provision of new landscaping to the rear of the sight lines to provide screening of the existing development in the yard and also to provide stability to the bank. A condition can be attached to require the submission of the landscaping details prior to works starting and the provision of the landscaping following the completion of the works.

Members should be clear, granting this permission to improve the access will not have any bearing on the unauthorised development on the site, that development still must be removed to comply with the terms of the enforcement notice in effect.

### **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. Prior to the commencement of any development hereby approved, a landscaping scheme shall be submitted and approved by the Council. The scheme shall include details of those trees to be retained and measures for their protection during the course of

development; details of a native species hedge to be planted to the rear of the visibility splays, along the boundary with the yard to the west and on the new slope created to the rear of the north sight line. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. The scheme as approved shall be carried out within the first available planting season following the 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 interest of visual amenity and road safety.

**Signature(s)**

**Date:**



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0213/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed restructuring and alterations of vehicular access	<b>Location:</b> 18 Cookstown Road Dungannon
<b>Referral Route: Refusal</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Barry O'Neill 18 Cookstown Road Dungannon	<b>Agent Name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report****Site Location Plan**

**Date of Site Visit:** 13/03/2020

**Representations:** None Received

**Description of proposal**

The proposal seeks full planning permission for the proposed restructuring and alterations of vehicular access, to provide visibility splays of 4.5m by 120m to the south and 2.4m by 100m to the north.

**Characteristics of site and area**

The application site is located at 18 Cookstown Road, Dungannon within the Dungannon Green Belt and outside any settlement limits as identified within the Dungannon and South Tyrone Area Plan 2010. The application site incorporates land at the existing access point of No. 18 onto the existing public road and land along the roadside to the north and south of the access which is required to provide improvements to the existing visibility splays.

There are a number of buildings and businesses located adjacent and west of the site, most seem to be used for storage, however uses are mixed and include retail and industrial. The wider surrounding context is predominantly rural in character with green fields, as well as dispersed dwellings, farm holdings and industrial works in proximity. The site is accessed via the A29 protected route.

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

Under the provisions of the Planning Act (Northern Ireland) 2011, all decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise. Dungannon and South Tyrone Area Plan 2010 is the relevant, extant Development Plan for the site. Account will also be taken of the relevant provisions of the SPPS and retained Planning Policy Statements (PPSs). The Strategic Planning Policy Statement for Northern Ireland (SPPS) published in September 2015 confirms that until such time as a Plan Strategy for the whole of the Council Area has been adopted the Council should continue to apply existing policy and guidance contained in retained PPSs and other relevant documents together with the provisions of the SPPS itself.

Dungannon and South Tyrone Area Plan 2010: The access is onto a Protected Route as defined in the area plan (A29 between Dungannon and Cookstown). The area plan states that PPS 3 is the regional policy which will be taken into account in determining planning applications involving development which affects the public road network and public safety. There is no conflict between SPPS and any of the current policies of PPS3 Access, Movement and Parking.

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. No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application.

PPS 3: Access, Movement and Parking: sets out the Department's planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. It forms an important element in the integration of transport and land use planning.

### **RELEVANT PLANNING HISTORY**

LA09/2019/1183/F- Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities, Pending (Deferred for Office Meetings)

LA09/2017/1258/F- Proposed retention of building as a domestic garage, incidental to the domestic usage of Dwelling at 18 Cookstown Road, Dungannon. Refused 13.06.2019 in that;

- The proposal is contrary to the Strategic Planning Policy Statement for Northern Ireland and Policy EXT 1 of the Addendum to Planning Policy Statement 7 Residential Extensions and Alterations in that the development would, if permitted, be inappropriate in terms of scale, massing, siting and design and would not appear subordinate or sympathetic with the existing property;

- The proposal is contrary to Planning Policy Statement 3: Access, Movement and Parking in that it has not been demonstrated that a safe and satisfactory access can be gained to the site from the public road, including visibility splays of 4.5m by 120.0m in both directions.

It is noted that originally the above application description of proposal was amended from Agricultural to domestic garage.

2017/E0050 - Lands 10m west and 10m north of No. 18 Cookstown Road, Dungannon, specifically identified as units 4 and 11, Ross Beg, Dungannon - Unauthorised change of use of: unit 4 to a dance studio with associated gymnasium; and unit 11 to a vehicle repair business - Enforcement Notice Upheld 13/08/18 including the following reasons for refusal (other reasons were upheld but these are relevant to this application);

The proposal is contrary to policy AMP2 of PPS3 in that the access is substandard and would require significant improvements to provide visibility splays of 4.5 metres x 120 metres at the access with the public road (protected route) in both directions. The average speed and volume of vehicles at this location is high; given the location of the access on an incline TAS approval would be required in order to achieve visibility splays and forward sight distance. It is in the interests of road safety that public safety is not prejudiced by substandard accesses onto the public highway.

The proposal is contrary to policy AMP 3 of PPS 3, in that, the development represents an intensification of an existing access onto a protected route using a substandard access. The A29 is a Protected Route between two principle towns within the Council area. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

LA09/2017/1618/LDE, Retention of existing Units, a certificate of lawfulness was granted for this existing development on 01.02.2018.

M/2006/1985/F - Approx. 60 metres East of 18 Cookstown Road, Derraghadoan, Dungannon, Bt71 4BG - Free Standing Hoarding - Permission Refused 19/02/07

M/2004/1534/F - Adjacent to 18 Cookstown Road, Dungannon - Proposed multi-purpose shed/store - Permission Granted 12/04/06



**CONSULTATION**

DfI Roads were consulted and responded on 19/03/2020 requesting 4.5m by 120.0m visibility splays in both directions.

**REPRESENTATION**

No 3rd party representations received.

**ASSESSMENT OF PLANNING ISSUES/MATERIAL CONSIDERATION**

The current situation on this site is that there is live enforcement proceedings which relates only to a newly constructed building on this site. Enforcement proceedings have been suspended until the outcome of planning application LA09/2019/1183/F- Proposed Retention of Building to Provide Communal Site Canteen, Locker Room + First Aid Facilities, Pending (Deferred for Office Meetings). This application relates to the unauthorised building.

Prior to the submission of the above application LA09/2017/1258/F was submitted in an attempt to retain this subject building for ancillary residential storage. Permission was refused for the reasons stated above including road safety. This decision was not appealed to the PAC.

A recent enforcement appeal was upheld on this site (2017/E0050 see above). The notice, insofar as it relates to the use of the 2 buildings, has been upheld as the unauthorised uses have ceased and there are currently no uses being carried out from these buildings. Under this appeal the PAC Commissioner made her own assessment of the access to the site and upheld a number of reasons for refusal drafted by Council (with some slight amendments), including both reasons stated above. In this appeal DfI Roads and Mid Ulster Council suggested planning conditions of 2.4m by 160m splays in both directions. However, the Commissioner changed these splay requirements to 4.5m by 120m in both directions after her detailed assessment.

All other buildings and uses on the site are immune from enforcement action and have been rectified under LA09/2017/1618/LDE.

This subject application has been submitted to rectify the substandard access to this site, which is located at a fast blind corner when travelling along a Protected Route from Cookstown towards Dungannon, which makes the access position and lack of splays particularly dangerous. Vehicles exiting the site and turning right towards Dungannon are particularly vulnerable. Given that the Planning Appeals Commission carried out a detailed assessment over road speeds, road alignment and traffic on this stretch of road, I would be reluctant to allow anything less than 4.5m by 120m, especially in a northern direction.

I agree with the assessment carried out by the PAC. While this application is for access provision only, it will improve the existing situation. However, the improvements will still result in a substandard access onto a protected route. This is not acceptable. Approving a sub-standard access to this site that could result in a fatality would be reckless of Council. The proposal is contrary to policy AMP2 of PPS3.

As the site accesses onto a Protected Route it also falls for consideration under policy AMP 3 of PPS3 Other Categories of Development. The A29 is a Protected Route between two principle towns within the Council area, Dungannon and Cookstown. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

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

**Summary of Recommendation:**

That permission is refused for the following reasons;

**Reasons for Refusal:**

1. The proposal is contrary to policy AMP2 of PPS3 in that the proposed access is substandard and would require significant improvements to provide visibility splays of 4.5 metres x 120 metres at the access with the public road (protected route) in both directions. The average speed and volume of vehicles at this location is high; given the location of the access on an incline TAS approval would be required in order to achieve visibility splays and forward sight distance. It is in the interests of road safety that public safety is not prejudiced by substandard accesses onto the public highway.

2. The proposal is contrary to policy AMP 3 of PPS 3, in that, the development represents a substandard access onto a protected route. The A29 is a Protected Route between two principle towns within the Council area. The development compromises the free and safe movement of traffic at a location which includes an incline and a dangerous bend therefore accesses which compromise the safety and convenience of road users must be severely restricted in the public interest.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	17th February 2020
<b>Date First Advertised</b>	3rd March 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 18 Cookstown Road,Dungannon,Tyrone,BT71 4BG The Owner/Occupier, 19 Cookstown Road,Dungannon,Tyrone,BT71 4BG The Owner/Occupier, 3 Coal Pit Road,Dungannon,Tyrone,BT71 4BH The Owner/Occupier, Bed Store,18 Cookstown Rd, Dungannon BT71 4BG The Owner/Occupier, Construction Fastteners,18 Cookstown Rd, Dungannon BT71 4BG	
<b>Date of Last Neighbour Notification</b>	20th March 2020
<b>Date of EIA Determination</b>	<b>NA</b>
<b>ES Requested</b>	No



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District Council

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/0905/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of change of use of former farm shed to engineering works	<b>Location:</b> Approx 40m South of 28 Slatmore Road Clogher
<b>Applicant Name and Address:</b> Wiltshire Engineering 28 Slatmore Road Clogher BT76 0HQ	<b>Agent name and Address:</b> Desmond O'Neill 17 Main Street Dromore BT78 3AE
<b>Summary of Issues:</b> Established farm for farm diversification purposes Land contamination from generator on site and invasive species nearby.	
<b>Summary of Consultee Responses:</b> NIEA – advise Council EHO are the body in respect of public health, note report by OSM and request targeted analysis around generators, no concerns about impacts on natural heritage Environmental Health Office – no comments in respect of noise sensitive receptors, advise NIEA are body for groundwater DFI Roads – did not inspect, requested parking to be shown DAERA – established farm Shared Environmental Services – note NIEA response NI Water – no public main and no public sewer DFI Rivers – some surface water flooding, no drainage assessment necessary	

**Characteristics of the Site and Area:**

This is an irregular shaped narrow roadside frontage plot located along the Slatmore Road, between Fivemile Town and Clogher within Mid Ulster District Council, opposite No. 28. There is a building with roller shutter door to the NW elevation located within the center of the site with a small building attached. The large building is currently used for engineering purposes and there is a diesel generator located to the rear. The smaller of the buildings seems to be used for agricultural purposes and is for general storage and shelter of animals. There are some tractors, trailers, log piles, pallets of cricks, a container, machinery parts, tractor tyres, metal sheets and wooden pallets around the site which is open to the public road along its entire length. Mature trees and a stream abuts the SW boundary, beyond which is a forested area to the west and south. The NW boundary is not clearly defined and is open to a larger agricultural field.

Land in the area is mostly agricultural grazing, with dispersed single dwellings and farm holdings. Opposite the site is a single storey dwelling which is within control of the applicant. There are no other dwellings within the immediate vicinity of this rural and secluded setting.

**Description of Proposal**

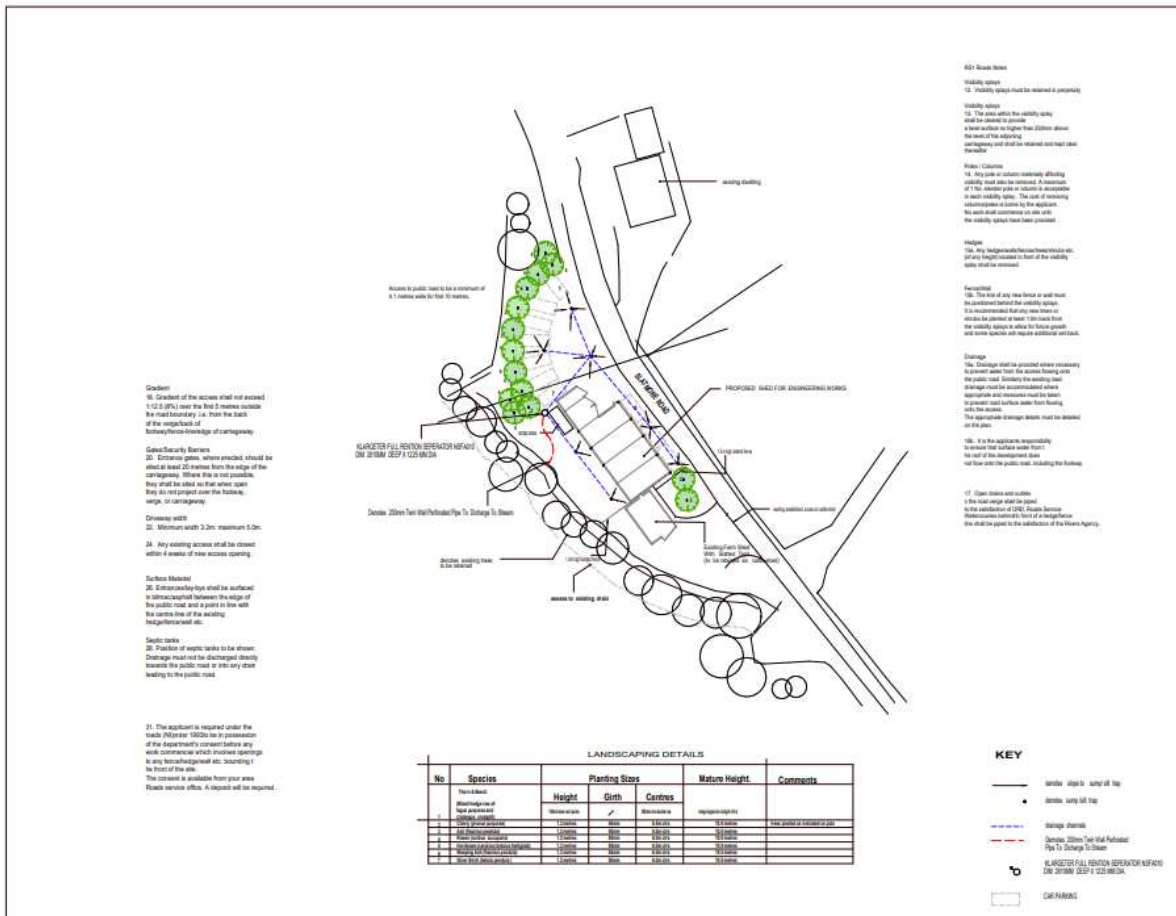
This is a full planning application for the retention of change of use of former farm shed to engineering works.

**Deferred Consideration:**

This application was before the planning committee in June 2021 with a recommendation to refuse as the agent had not provided additional information to allow for the consideration of the proposal. The application was deferred to allow the agent time to submit information. The issues here relate to farm diversification, environmental issues and industrial development. CTY11 sets out a range of issues that I consider cover some of the other criteria set out in PPS4, if the proposal meets with CTY11 then I consider it will also meet PPS4.

Additional information was submitted or consideration:

- 25<sup>th</sup> June 2021, P1C form and farm maps in respect of the farming case
- 29<sup>th</sup> June 2021 and 30<sup>th</sup> June, an amended plan to show a drainage scheme for the site (drg No 02REV1)
- 30<sup>th</sup> June 2021, NI Biodiversity Checklist and Ecological Survey
- 28<sup>th</sup> July 2021, Preliminary Risk Assessment



DAERA have responded to advise the farm has been in existence for over 6 years, a Category 1 farm was registered on 08/12/2005. The farm maps submitted with the application show 0.4ha on the opposite side of the road from the application site, around the existing bungalow on the farm. An additional 1.5ha is located at Keel Road, 1.2kms north west of the application site. The existing farm buildings are these buildings and the farmhouse across the road. This proposal is for the retention of the use of part of the farm group for engineering purposes and the remainder of the buildings, which have a slatted floor and are used for housing cattle. The applicant has advised they are currently active and have a herd book with the details of 30 cattle, the most recent was born on 6/2/22. At my site visit I noted there are animals in the other part of the building and as such I am content this demonstrates that the farm is currently active and given the proximity of the buildings I am content the proposal is run in conjunction with the farm.

NIEA had requested additional information in relation to contamination of lands from a generator on the site. Additional information has been submitted that shows the generator has now been changed, upgraded to a bunded type and is located on a concrete plinth. Any diesel spillage has been cleared up and is no longer visible on the site. NIEA were contacted for comment in relation to the need for the additional land contamination information and have not requested anything further. The most recent response refers to the animal houses and slurry containment which is not part of this application. As the NIEA consultation was specifically in relation to the need for additional contamination surveys, they did not request anything further, the generator has been changed and the area concreted over, I do not consider it necessary to request anything further in relation

to this.

DFI Roads advise they do not have enough information to determine the proposal, they requested a TAF and advised they cannot assess the parking or turning on the site. They have advised Slatmore Road is a narrow very lightly trafficked road with low speeds and they have no records of any collision history here. At the time of my visit the building was being used to fit out an agricultural trailer and the area to the side was used for storage purposes. The building is 95sqm in area, the parking standards advise this requires 4 spaces and a commercial vehicle space. Drawing 02 Rev 1 shows 10 spaces on the site, well in excess of what is necessary. The entire site frontage is open to the road and as Roads have indicated traffic speeds are low and from my own observations on site I consider sight lines of 2.0m x 30.0m are available and in place. As there is space for double the parking required I consider there is ample space to park and turn as well as service this unit. The revised site layout shows the parking areas are to drain into an interceptor before discharging to the drain. This can be dealt with by way of a condition to ensure this is provided and that it is installed to NIEA requirements.

The only residential development close by is the applicants own dwelling across the road, as such I do not consider the proposal will have any adverse impacts on residential amenity.

An ecology report identified there is invasive species outside the site, this is not part of this proposal and while it would be helpful to have this removed and controlled, the proposed development will not affect this or cause its spread. I do not consider it appropriate to add any conditions about the invasive species.

The applicants have provided some landscaping to the site boundaries which I consider will be beneficial as these are native species trees that will encourage biodiversity. I consider it appropriate to condition these are provided with the next available planting season following the provision of the car parking area.

As the proposal meets with the requirements of CTY11 and is unlikely to create any roads safety issues or environmental issues I recommend this application is approved.

**Conditions/Reasons for Refusal:**

1. Within 3 months of the date of this permission the car parking area including all the drainage and separation tank as shown on drawing No 02 Rev 1 bearing the stamp dated 30 JUN 2021 shall be provided in full.

Reason: To protect the water environment from pollution

2. The car parking area as provided in accordance with condition 1 shall be kept for the parking and turning of vehicles only and shall not be used for any other purpose.

Reason: In the interest of road safety.

3. During the first available planting season following the provision of the car park as detailed in condition 1 the landscaping scheme as shown on drawing No 02 Rev 1 bearing the stamp dated 30 JUN 2021 shall be provided in full. 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 and biodiversity.

**Signature(s):**

**Date**





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0905/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of change of use of former farm shed to engineering works	<b>Location:</b> Approx 40m South of 28 Slatmore Road Clogher
<b>Referral Route: Refuse for lack of information</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Wiltshire Engineering 28 Slatmore Road Clogher BT76 0HQ	<b>Agent Name and Address:</b> Desmond O'Neill 17 Main Street Dromore BT78 3AE
<b>Executive Summary:</b> Insufficient information has been provided to show that; -the farm business is both active and established; -the proposal can be run in conjunction with the farming operations on site; -materials can be stored in an orderly fashion within a portion of the site that will not cause detriment to rural character; -the proposal will not result in a risk to road safety; and, -the proposal will not have a detrimental impact on natural heritage interests.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Representations:** None Received

### Description of proposal

This is a full planning application for the retention of change of use of former farm shed to engineering works.

### Characteristics of Site and Area

This is an irregular shaped narrow roadside frontage plot located along the Slatmore Road, between Fivemile Town and Clogher within Mid Ulster District Council, opposite No. 28. There is a building with roller shutter door to the NW elevation located within the center of the site with a small building attached. The large building is currently used for engineering purposes and there is a diesel generator located to the rear. The smaller of the buildings seems to be used for agricultural purposes and is for general storage and shelter of animals. There are some tractors, trailers, log piles, pallets of cricks, a container, machinery parts, tractor tyres, metal sheets and wooden pallets strewn around the site which is open to the public road along its entire length. Mature trees and a stream abuts the SW boundary, beyond which is a forested area to the west and south. The NW boundary is not clearly defined and is open to a larger agricultural field.

Land in the area is mostly agricultural grazing, with dispersed single dwellings and farm holdings. Opposite the site is a single storey dwelling which is within control of the applicant. There are no other dwellings within the immediate vicinity of this rural and secluded setting.

### Planning Assessment of Policy and Other Material Considerations

#### Planning Act 2011

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

determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.

### **Area Plan**

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

Dungannon and South Tyrone Area Plan 2010 (DSTAP)- this is the extant area plan for the area. This proposal is not located within any settlement limit and is in the open countryside. The site has no particular land use designation in the Area Plan.

### **Key Planning Policy**

SPPS- Strategic Planning Policy Statement for NI  
PPS 21 Sustainable development in the countryside  
PPS3- access, movement and parking  
PPS2- Natural Heritage

### **Relevant Planning History**

An enforcement case was opened on this site in 2019. This planning application has been submitted in response to this case and further enforcement proceedings suspended pending the outcome of this application. There are no other relevant planning histories on this site.

### **Third Party Representations**

No objections have been received on this application. I am satisfied that the proposal has been advertised and neighbour notification carried out in accordance with Council's statutory duties.

### **Consultee responses**

DFI Roads require additional information to show parking provision and servicing areas within the site.

NIEA require a full drainage plan and land contamination information. The agent also has to provide a biodiversity checklist.

SES require the same information as NIEA so that they can complete their Habitats Regulation Assessment.

Environmental Health no objection

NIW no objection

Rivers Agency were consulted and raise no objection to the proposal.

### **Consideration**

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

with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS.

Paragraph 5.27 states that planning authorities should be guided by the principle that sustainable development should be permitted...unless the proposed development will cause demonstrable harm.

In support this proposal the applicant has provided a Supporting Statement on 25/11/2020 which contains the applicants farm business ID number, details of lands owned by the applicant and a case for how the proposal meets the policy requirements of CTY11 Farm Diversification policy of PPS21. I request from the agent on 25/11/2020 a P1C form so that I could consult with DAERA, and sent a reminder 26/02/2021 but to date have not received this.

The proposal is for the retention of change of use of former farm shed to engineering works. I consider that policy CTY 11 of PPS21 is the appropriate policy in which to consider this proposal.

As the applicant has not provided a P1C form so that consultation with DAERA can take place, there is insufficient information to demonstrate that the applicant's farm holding is both established for a period of 6 or more years and is currently active. In the statement of case provided by the agent, there is a strong case put forward that this is likely to be the case, however this has not been confirmed by DAERA.

In the statement of case the agent states that the applicant carries out repairs to farm machinery in the surrounding area, as well as being metal fabricators. In my view, if there is a financial link to the farming business then I am of the view that the proposal could be considered as being run in conjunction with the farming business. There is no clarification within the justification or amplification of CTY11 of what 'in conjunction' means and a very liberal application of this term has been applied by Mid Ulster Council in the past.

The applicant states that the smaller shed is retained in agricultural use. This is a very confined site and DfI Roads require additional information to ensure that parking and servicing of the site can be achieved for both the engineering operations and the existing agricultural operations on site. I requested this information on 16/11/2020 and nothing has been provided by the agent to date to address these issues. Therefore it is difficult to say that this business can be run in conjunction with the farming operations on site without this information.

This is a roadside frontage plot in the countryside with an open roadside boundary. There is a lot of machinery and materials strewn around the site which is somewhat unsightly. The block plan provided does not show how the site will be laid out, and for this reason I am of the view that the proposal is not of a character that is appropriate to its rural location. The scale is modest however adhoc storage of material throughout the site is in my view detrimental to the character of this area of countryside.

A stream flows along the western boundary of the site. On the day of my site visit there was torrential rainfall. When I went to the rear of the building I noticed a diesel generator and diesel sludge was leaking towards the stream. For this reason I consulted NIEA and

SES for comment on potential impacts on the natural environment. NIEA and SES require a full drainage assessment and land contamination information. I requested this from the agent on 25/11/2020 and again in a final reminder on 26/03/2021. No information is forthcoming so I cannot determine the impact of this proposal on the natural environment. There is no identified build heritage or monument interest in the area.

The only dwelling close to the business is in ownership or control of the applicant. I consulted with Environmental Health and they have no concern that the proposal will result in detrimental impacts on the amenity of nearby residential dwellings, part (d) of CTY11 is met.

In my view the proposal integrates into the landscape given the mature boundary to the west and the backdrop of a larger forested area. The building has the appearance of an agricultural building and is of a modest size and scale and groups with the existing holding (as it was once part of it). I am satisfied that the building does not offend policies CTY13 or 14 of PPS21.

#### PPS3 Access Movement and Parking

In my view the agent has not demonstrated that parking and servicing of both land uses on this restricted site can be achieved. The proposal is contrary to policy AMP2 of PPS3 as there is insufficient information to demonstrate that sufficient parking and servicing can be achieved and could therefore pose a risk to road safety.

#### PPS2 Natural Heritage

As assessed under part (c) of CTY11 above, the agent has not supplied sufficient information to demonstrate that the proposal will not have a detrimental impact to natural heritage interests and should be refused for lack of information.

**Neighbour Notification Checked: Yes**

#### Summary of Recommendation:

That planning permission be refused for the following reasons;

#### Reasons for Refusal:

1.The proposal is contrary to PPS21 Sustainable Development in the Countryside Policy CTY11 Farm Diversification in that there is insufficient information provided to demonstrate the following;

- that the farm business has been established for a period of 6 years and is currently active and a P1C form and full suite of farm maps have not been provided;
- that the proposal can be run in conjunction with farming operations on the site in terms of parking, manoeuvring and servicing of vehicles and no information has been supplied to show parking and movement of vehicles on site for both landuses;
- that materials can be stored in an orderly fashion within a portion of the site that will not cause detriment to rural character;
- that the proposal will not have a detrimental impact on natural heritage and a full drainage plan and land contamination information has not been provided.

2. The proposal is contrary to PPS3 Access, Movement and Parking as insufficient information has been provided to demonstrate that there is sufficient space on site to allow for the safe parking and manoeuvring of vehicles for both landuses which could result in a risk to road safety.

3. The proposal is contrary to PPS2 Natural Heritage in that insufficient information has been provided to demonstrate that the proposal will not result in detrimental impacts to interests of natural heritage importance.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	27th July 2020
<b>Date First Advertised</b>	11th August 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 28 Slatmore Road, Clogher, Tyrone, BT76 0HQ	
<b>Date of Last Neighbour Notification</b>	25th August 2020
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Notification to Department (if relevant): NA</b>  Date of Notification to Department: Response of Department:	







## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> 16 November 2020
<b>Proposal:</b> Outline planning permission for a dwelling on a farm with a detached garage	<b>Location:</b> Between 104 Ballygawley Road And An Agricultural Building 100M North East Of 104 Ballygawley Road Glenadush
<b>Applicant Name and Address:</b> Mr Bernard MC Aleer 101 Ballygawley Road Dungannon BT71 6DA	<b>Agent name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b> <p>This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.</p> <p>The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.</p> <p>The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the</p>	

agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

#### **Description of Proposal**

This is an outline planning application for a dwelling on a farm with a detached garage.

#### **Deferred Consideration:**

This application was initially presented before the Planning Committee in January 2021 where it was deferred for an office meeting with the Service Director. The application was listed as a refusal in November 2021 but was withdrawn from the schedule to allow proper consideration of a dwelling on a farm rather than the initial submission of an infill dwelling. The application was then presented before the Planning Committee in October 2022, again with a recommendation to refuse where it was deferred for a site visit with Members. This site visit took place on 25 October 2022. No additional information has been received from the agent/applicant.

Having reviewed the deferred report by the Senior Planning Officer I am content the proposal satisfies criteria (a) and (b) of CTY 10.

With regards to criteria (c), and having visited the site with Members it was clear to see there is one building on the holding with which the applicant wishes to site a new dwelling. Criteria (c) states that a new building must visually link or site to cluster with an established group of buildings on the farm. The policy does provide for an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirements of Policies CTY 13, 14 and 16., however this exception can only be considered where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group. As referred to by the Senior Planning Officer in his deferred report this interpretation will prevent all farmer who only have one building or no buildings at all on their holding, from ever obtaining permission to build a dwelling on their farm. Members may feel this is unduly harsh and as such may wish to exercise an exception to the policy.

Referring to CTY 13, it is considered that should a dwelling be allowed on this site it can be conditioned to a ridge height of 5.5m so as the new dwelling will not appear as being prominent in the landscape. There are long established boundaries to the site which will assist the dwelling integrating into the rural area at this location.

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. Having carried out a site visit I agree with the previous assessment of the Senior Planning Officer and do not consider a new dwelling will adversely impact on the rural character of the area.

The previous reports have addressed all the issues of concern raised by the objectors to the application and I do not intend to repeat these in this assessment.

In conclusion, the issue of concern is the principle of development as the applicant has failed to demonstrate compliance with the requirements of Policy CTY 10 of PPS 21 in that there isn't a group of buildings on the farm, with which to visually link or cluster a new dwelling on the farm. The application does not meet with Policy CTY 10 or the exception within CTY 10 and as such a refusal is recommended for the reasons below.

**Conditions/Reasons for Refusal:**

**Refusal Reasons**

**Reason 1**

The proposed development is contrary to Policy CTY1 of Planning Policy Statement 21 as it has not been demonstrated the proposed dwelling is necessary in the countryside and meets with one of the policies for a dwelling in the countryside.

**Reason 2**

The proposed development is contrary to Policy CTY10 of Planning Policy Statement 21 as there is no established group of buildings on the farm therefore the development cannot visually link or cluster with a group of buildings and as there are no buildings on the farm the exception within the policy to allow a site elsewhere on the farm cannot be considered.

**Signature(s):**Karen Doyle

**Date:** 23 January 2023





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Outline planning permission for a dwelling on a farm with a detached garage	<b>Location:</b> Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
<b>Applicant Name and Address:</b> Bernard Mc Aleer 101 Ballygawley Road Dungannon BT71 6DA	<b>Agent name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Summary of Issues:</b> Is this for an active and established farmer Does the proposal meet with planning policy	
<b>Summary of Consultee Responses:</b> DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
<b>Characteristics of the Site and Area:</b>  This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

#### **Description of Proposal**

This is an outline planning application for a dwelling on a farm with a detached garage

**Deferred Consideration:**

This application was removed from the schedule for discussion at the Planning Committee in November 2021 as the proposed development was assessed against a dwelling on a farm, however the proposal at that time referred to an infill dwelling. The Service Director was concerned there would be confusion caused by this and wished to have the description amended. The applicant submitted an amended description and the proposal under consideration is as currently described above. Following the receipt of the amended description the application was advertised and contributors and neighbours notified about the proposal. An additional 11 letters of objection were received.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

**a) The farm business must be currently active and established for at least 6 years.**

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system. DAERA have also provided information about activities on the business:

- 13/08/2019 – 3 animals moved into the flock
- 05/10/2020 – 3 animals moved out of the flock
- 13/05/2021 – 8 animals moved into the flock (tags nos provided for 3 of them)
- 07/10/2021 – 5 animals moved out of the flock

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this indicates the land was being used for agricultural purposes at that time.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview photographs from April 2011 (fig 4) that support the applicants version of events that crops



were being grown at those times.



Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.



Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
  - S O'Neill for hedge cutting in July and October 2014,
  - K Quinn for hedge cutting in July and October 2015 and
  - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware that while it would be helpful if the applicant has been registered with DAERA. In those cases that Department can confirm the farm is currently active and established and this is helpful to the consideration of applications for dwellings on farms. This is not the case here, DAERA have advised the business was registered with them on 12/06/2019, which is short of the 6 years required to demonstrate an established farm. That said the policy refers to the farm business having to be currently active and established and the policy advises 'farming activity' can take many different forms. The SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2) while amplification to Policy CTY10 para 5.39 indicates keeping the land in good agricultural and environmental condition is 'farming activity'. In this case, from the information submitted, it is clear Mr McAleer has been investing in the land and obtaining a return for that investment for a period in excess of 6 years. This is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2014 (6 years before the application was submitted), then I consider this is an established and currently active agricultural business.

In light of the above information, I am content that this is a currently active and established farm business and criteria a of CTY10 has been met.

**b) no dwellings or development opportunities ..... have been sold off ... within 10 years of the date of the application....**

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. Mr McAleer has moved to a dwelling on the opposite side of the road from the site which he has advised is rented accommodation..

**c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.**

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3<sup>rd</sup> October 2019.. The policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16, however this exception can only be considered where there are either demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s). The exception within the policy is clear that it only requires consideration of sites beside other groups of buildings on the farm and not other sites on the farm. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm and it cannot be considered as an exception within the policy as, with no group of building on the farm, the remainder of criteria c, including the exception cannot be relied upon to grant



permission.

This interpretation will prevent all farmers who only have one building or no buildings at all on their holding, from ever obtaining permission to build a dwelling on their farm. Members may feel this is unduly harsh and as such may wish to exercise an exception to the policy here.

Even though the proposal is contrary to CTY10 criteria c, as there are no building on the farm, I will consider the other aspects of the CTY13 and CTY14. The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the end of the laneway, identified in fig



6 with the red arrow.

Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

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.

### **Objections**

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. 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. 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 proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address 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.

The objector has raised Lamont Judicial Review case where planning permission was quashed due to the wrong interpretation of policy. In the Lamont Case the decision makers concluded the proposal met with CTY10 as it was sited beside a building on the farm. The Judge considered this was not a correct interpretation of the Policy and set out that the decision maker had reduced the policy requirement from a group of buildings to one single building. In this case, it is clearly set out there is one building and this proposal does not meet this part of the policy test. There is an exclusion within the policy that allows the siting away from buildings where there are health and safety concerns or verifiable plans to extend the farm. Again this is not be utilised as there have not been any details provided to justify the position away from a group of buildings on the farm.

In view of the above, it is my recommendation to the members that as there is no group of buildings on the farm, this application cannot meet with Policy CTY10 or the exception within policy CTY10 and as such should be refused.

## APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
  - there were previous applications refused on this site for Mrs Gillen
- a laneway has been created was supposed to be grass path

Photos:

- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

dated 18/11/2020 - objection

photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer
- M/2010/0554/O – application for 2 dwellings

dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

dated 28/12/2020 - representation

no planning issues raised in this representation

dated 3/5/2021 - objection

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

dated 3/5/2021 - objection

- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

dated 3<sup>rd</sup> May 2021 - objection

- not for a farmer

dated 4/5/2021 - objection

includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

- support for the application, refers to previous support letter as not being uploaded,
- owns the lane and others only have a right of way
- the applicant assists with maintenance of the lane and hedges
- previous letter advises:
  - Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land
  - the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 2015, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land



Received 25 May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

received 17/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

received 28/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since
- proposal is contrary to CTY1, CTY2a, CTY6, CTY&, CTY13, CTY14, CTY12
- farmer never bought cattle

received 19/11/2021 – objection

- not an active farmer, only active when you get ID Number

received 19/11/2021 – objection

- DAERA response 29 March not correct, not established 6 years, should only be counted from when business id issued from 12/6/19
- Who instigated response from DAERA, why delays in querying information
- Site was refused 1999 and 2010
- Suburban sprawl

received 19/11/2021 – objection

- Applicant not a farmer and states so in original application form
- Client business number is not business number, can be a client without having a business
- Lands claimed under another business, that was the active farmer
- DAERA rules do not allow animals from another farm to be grazed on lands claimed by another business
- Previous application for farm building (LA09/2017/0899/F) did not demonstrate that was active farmer
- No evidence why cannot be sited on another part of the farm
- Contrary to CTY13 and CTY14

Dated 22/11/21 – objection

- Objections as previously stated

received 10/12/2021 – objection

- does not meet criteria in CTY10
- not a farmer by DAERA Minister Poots definition

received 18/01/2022 – objection

- DAERA response contradicts itself
- applicant is not a farmer, land used by other farmer

received 04/02/2022 – objection

- the assessment of the information presented does not go into detail compared to other cases for dwellings on farms in other Council areas
- no address for the contractors who carried out the work for contacting them
- bills/receipts not specific to this applicant

received 25/03/2022 – objection

- 8 sheep in the field during site inspection in September 2021, whose sheep, planners should ask DAERA to provide information about flock numbers/herd book
- other Councils carry out more detailed considerations of the information for farming activity

received 21/04/2022 – objection

- flock list provided on website not considered to be from DAERA

received 31/03/2022 – response from DAERA

- details of flock movements for this business, address changed, bought and sold 3 cattle

received 5/05/2022 – objection

- response to email correspondence with DAERA about flock/herd
- query numbers and locations
- do not consider Mr McAleer farms this field
- does not visually link or cluster with group of buildings on the farm, no information submitted about health and safety reasons or plans to extend the farm

received 22/08/2022 – objection

- PAC refused case in different Council area because they could not prove farming case, similar to here
- need to look into the farming evidence provided, no addresses on receipts to check who carried out the work
- similar case in Lamont Judicial Review, does not visually link or cluster with a group of buildings on the farm
- not for a long suffering small farmer
- this has been refused on CTY13 and CTY14

received 30/08/2022 – objection

- queried the 8 sheep in the field
- who farms the land

## APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

### Reasons for Refusal:

1. The proposed development is contrary to Policy CTY1 of Planning Policy Statement 21 as it has not been demonstrated the proposed dwelling is necessary in the countryside and meets with one of the policies for a dwelling in the countryside.
2. The proposed development is contrary to Policy CTY10 of Planning Policy Statement 21 as there is no established group of buildings on the farm therefore the development cannot visually link or cluster with a group of buildings and as there are no buildings on the farm the exception within the policy to allow a site elsewhere on the farm cannot be considered.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> An infill dwelling and detached garage (farm case submitted)	<b>Location:</b> Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
<b>Applicant Name and Address:</b> Bernard Mc Aleer 7 Glenree Avenue Dungannon	<b>Agent name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Summary of Issues:</b> Dwelling on a farm, number of buildings and length of time.	
<b>Summary of Consultee Responses:</b> DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
<b>Characteristics of the Site and Area:</b>  This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

### **Description of Proposal**

This is an outline planning application for an infill dwelling and detached garage (farm case submitted)

**Deferred Consideration:**

Members are advised this application was deferred at the planning committee on 11<sup>th</sup> January 2021 for a meeting with the Planning Manager to discuss the application and explore the case. At the meeting on 20 January 2021 it was made clear this does not meet the criteria for an infill opportunity under Policy CYTY8, it was noted that planning permission had been granted for an agricultural building on this land and information was requested on the farming case for consideration against Policy CTY10.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

**a) The farm business must be currently active and established for at least 6 years.**

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system.

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this illustrates that Mr McAleer is a farmer and the farm is currently active.



Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview photographs from April 2011 (fig 4) that support the applicants version of events that crops



were being grown at those times.



Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.





Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
  - S O'Neill for hedge cutting in July and October 2014,
  - K Quinn for hedge cutting in July and October 2015 and
  - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware the policy refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2). In this case it is clear Mr McAleer has been investing in the land and obtaining a return for that investment, and this is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2015 (6 years ago) then I consider this is an established agricultural business.

In light of the above information, I am content that this is an active and established farm business and criteria a of CTY10 has been met.

**b) no dwellings or development opportunities ..... have been sold off ... within 10 years of the date of the application....**

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. I am content that criteria b of CTY10 has been met.

**c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.**

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3<sup>rd</sup> October 2019. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm. That said, the policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16. As there is no group of buildings associated with this farm I consider it appropriate to assess the proposal under this exception in the policy.

The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the end of the laneway, identified in fig 6 with the red arrow.



Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of

a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

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.

### **Objections**

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. 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. 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 proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address 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.

In view of the above, it is my recommendation to the members that this proposal meets with the exception in CTY10 and that planning permission is granted with the conditions specified.

#### APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
- there were previous applications refused on this site for Mrs Gillen

a laneway has been created was supposed to be grass path

Photos:

- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

dated 18/11/2020 - objection

photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer
- M/2010/0554/O – application for 2 dwellings



dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

dated 28/12/2020 - representation

no planning issues raised in this representation

dated 3/5/2021 - objection

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

dated 3/5/2021 - objection

- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

dated 3<sup>rd</sup> May 2021 - objection

- not for a farmer

dated 4/5/2021 - objection

includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

-support for the application, refers to previous support letter as not being uploaded,

- owns the lane and others only have a right of way

- the applicant assists with maintenance of the lane and hedges

- previous letter advises:

- Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land

- the development will not impact the rural area and will not transform it into a suburban development

date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 215, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

dated 24<sup>th</sup> May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

dated 15/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

dated 24/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since
- proposal is contrary to CTY1, CTY2a, CTY6, CTY&, CTY13, CTY14, CTY12
- farmer never bought cattle

## APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

### 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 be limited to the area identified 'proposed new boundary hedge' on the approved plan No. 02 which was date stamp received 21<sup>st</sup> September 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 5.0m above the finished floor level and the garage hereby approved shall not have a ridge height exceeding 4.0m above the finished floor level.

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

5. The finished floor levels of the dwelling and garage hereby permitted shall not exceed the level of the existing ground level at point A as annotated on drawing number 01 bearing the stamp dated 21 SEP 2020.



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. The north west, northeast and south east boundaries of the area identified in red and blue on drawing No 01 bearing the stamp dated 21 SEP 2020 shall be allowed to grow up to a height of at least 3 meters and shall be retained at that height. 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 90.0m in both directions and a forward sight distance of 90.0m. 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.

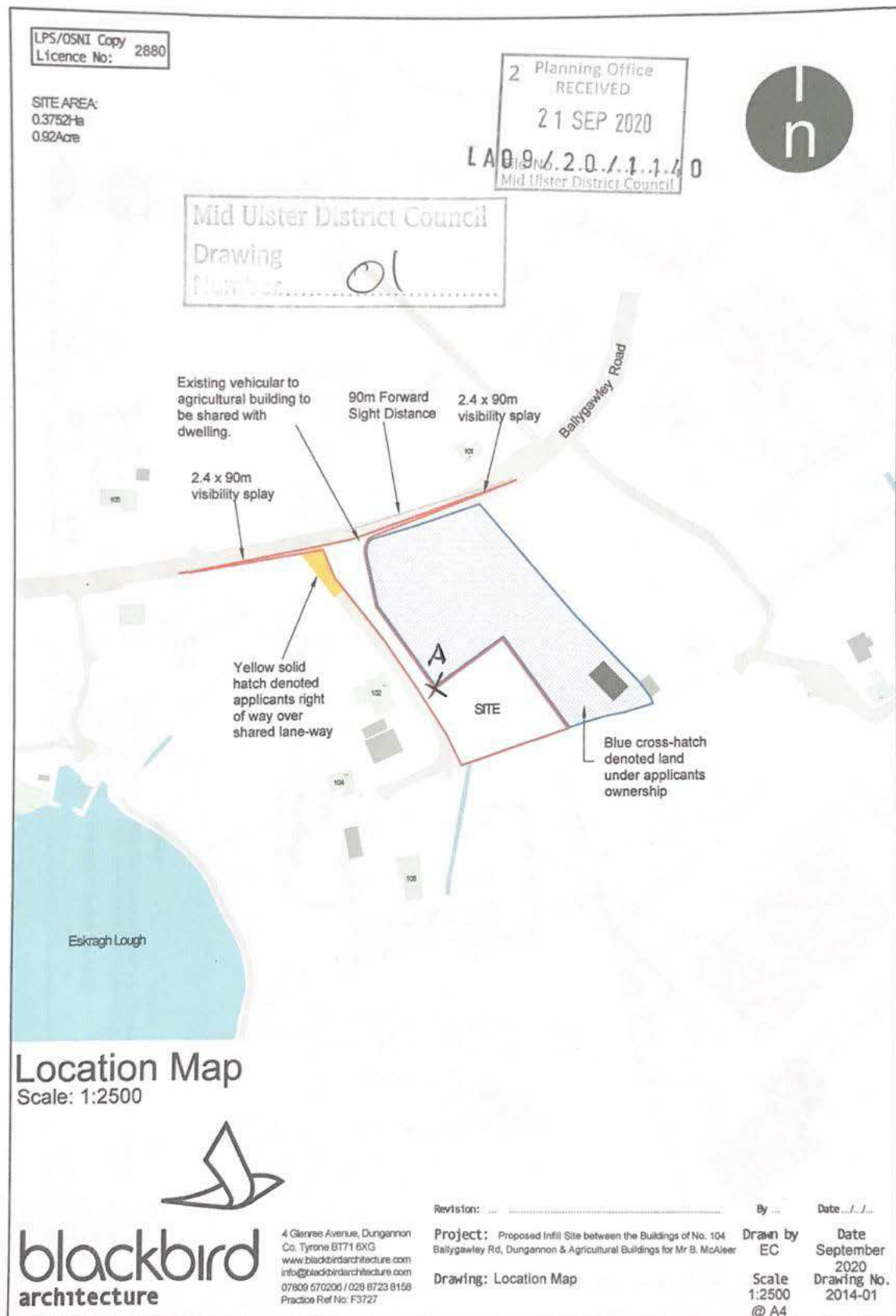
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

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 point A identified





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> 01/01/2020
<b>Proposal:</b> An infill dwelling and detached garage	<b>Location:</b> Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
<b>Referral Route: Objections, recommendation to refuse</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	<b>Agent Name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Executive Summary:</b> Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

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

### Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

### **Description of proposal**

This is an outline planning application for an infill dwelling and detached garage in the countryside.

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

This site is located in the SE corner of a larger agricultural field, and is accessed via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicant's ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

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

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

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

#### Key Planning Policy

##### SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

#### Design Guidance: Building on Tradition

#### Relevant Planning History

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

#### Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant



or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

#### Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

#### Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

This site is located adjacent and west of an existing agricultural building. This building is set back approx. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

**Other considerations**

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That permission is refused for the following reasons;

**Refusal Reasons**

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	21st September 2020
<b>Date First Advertised</b>	6th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
<b>Date of Last Neighbour Notification</b>	10th December 2020
<b>Date of EIA Determination</b>	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
<b>ES Requested</b>	No





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> An infill dwelling and detached garage (farm case submitted)	<b>Location:</b> Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road, Glenadush
<b>Applicant Name and Address:</b> Bernard Mc Aleer 7 Glenree Avenue Dungannon	<b>Agent name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Summary of Issues:</b> Dwelling on a farm, number of buildings and length of time.	
<b>Summary of Consultee Responses:</b> DFI Roads – Access in accordance with the RS1 form which require visibility splays of 2.4m by 90.0 m in both directions and a forward sight distance of 90.0m. DEARA – Farm has been established for over 6 years, no recent claims and claims associated with another business, business ID issued in 2019 but member has been The business number associated with planning application LA09/2020/1140/O was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011.	
<b>Characteristics of the Site and Area:</b>  This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.	

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remained of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

### **Description of Proposal**

This is an outline planning application for an infill dwelling and detached garage (farm case submitted)

**Deferred Consideration:**

Members are advised this application was deferred at the planning committee on 11<sup>th</sup> January 2021 for a meeting with the Planning Manager to discuss the application and explore the case. At the meeting on 20 January 2021 it was made clear this does not meet the criteria for an infill opportunity under Policy CYTY8, it was noted that planning permission had been granted for an agricultural building on this land and information was requested on the farming case for consideration against Policy CTY10.

Committee members will be well aware of the requirement of Policy CTY10 when considering dwellings on a farm. There are 3 criteria the policy says must be met and also there is an exception within the policy where there is no site beside existing buildings on the farm.

**a) The farm business must be currently active and established for at least 6 years.**

In support of this the applicant submitted a P1C – Dwelling on a Farm application form and advised the farm business was allocated on 13 June 2019. Additional information was also provided to set out what the applicant has been doing with the land and how long they have had the land.

DEARA have advised the business number associated with this planning application was created on 12/06/2019 and was given a category 3 status. The member named in the business had an old Client reference number registered with DAERA that was created on 6/07/2011, this client reference number was created for the purposes of land identification when DARD required proof of ownership of land before they would allocate a field number on their system.

I undertook a site inspection on 2 September 2021 and noted there were 8 sheep in the field as can be seen in fig 1 and 2 below, I consider this illustrates that Mr McAleer is a farmer and the farm is currently active.





Fig 1 view of application site from in front on Old Ballygawley Road



Fig 2 view of application site from in front and west on Old Ballygawley Road

Further information submitted indicates the applicant gained control of the land in 2007. In 2010, 2011 and 2012 Mr Cush rented the land and sowed potatoes. Mr Cush has passed away so this information cannot be verified by Mr Cush, however there are aerial photographs which OSNI have flown on 31 August 2010 (fig 3) and google streetview

photographs from April 2011 (fig 4) that support the applicants version of events that crops were being grown at those times.



Fig 3 - OSNI aerial photograph of the land flown 31/08/20



Fig 4 – Google streetview image captured April 2011

The applicant advises they employed Mr Cush to sow out the land in grass seed in 2012 and from then until 2019 it was taken by Mrs Davidson who advises she only had to put her animals on the land and cut the silage as Mr McAleer carried out all other works to maintain the hedges, fences and drains in the field. An aerial photograph from OSNI flown on 7 June 2013 shows there has been some work done to the land as it is bare earth with clearly visible marks of machinery having been on the land (fig 5). Had this been sown in 2012 as advised then it should have been in grass, however it is evident that at this time work had been done to the land.



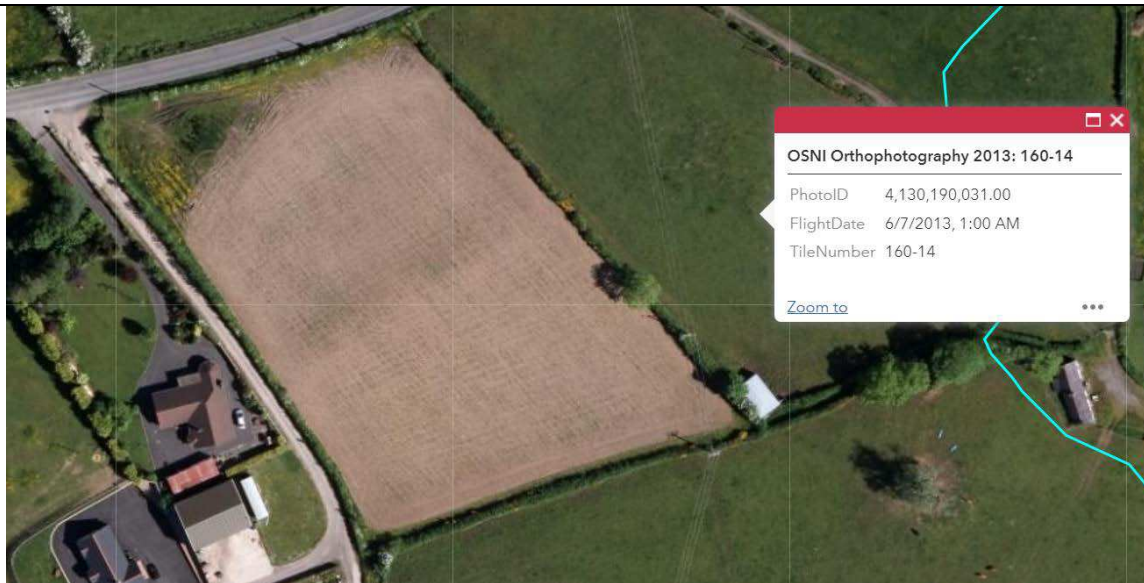


Fig 5 – OSNI aerial photograph of the land on 7 June 2013

Additional information provided in support of the application states:

- 1) the applicant engaged 3 different contractors between 2014 and 2020 to carry out works for the maintenance of the hedgerows. Invoices have been submitted which the applicant advises were written up recently from the contractors records and these are from:
  - S O'Neill for hedge cutting in July and October 2014,
  - K Quinn for hedge cutting in July and October 2015 and
  - D Dobson for hedge cutting in July and October 2016, 2017, 2018, 2019 and 2020
- 2) the applicant engaged Sean Rafferty to carry out works to the drains and fences in 2007-2008
- 3) Mr Ciaran O'Donnell carried out major works to the drains in 2017 where directional drilling was carried out and photographs are provided to show this. I consider the photographs are from the north west corner of this field as it is clear in the photographs there are trees and electricity poles in the south east corner that are still on site today. This can be seen below in the photograph provided by the applicant and in the google streetview image from June 2015 (Fig 7).



Fig 7 photograph of drainage work being undertaken and google streetview map, not trees and electric pole in middle of the pictures.

4) Mrs Davidson has advised that she took the land between 2012 and 2019 and claimed single farm payment on it. She also advised that Mr McAleer maintained the ground and she put her animals on it and took silage off it.

Members will be aware the policy refers to the farm business having to be active and established. Farming activity can take many different forms, the SPPS refers to Regulation (EU) No 1307/2013 for the definition of agricultural activity (see appendix 2). In this case it is clear Mr McAleer has been investing in the land and obtaining a return for that investment, and this is the common understanding of what a business is. There is no dispute that the land has been used for agricultural activities as it has been shown that it was used for growing potatoes and keeping animals on it, which, in my view, falls under the definition of agricultural activities and as it has been ongoing since before 2015 (6 years ago) then I consider this is an established agricultural business.

In light of the above information, I am content that this is an active and established farm business and criteria a of CTY10 has been met.

**b) no dwellings or development opportunities ..... have been sold off ... within 10 years of the date of the application....**

I have checked the land identified as being in Mr McAleers ownership here and there have not been any sites or dwellings sold off the farm in the 10 years before the application was submitted. I am content that criteria b of CTY10 has been met.

**c) new buildings should be sited to visually link or cluster with an established group of buildings on the farm and where practicable access should be from existing lanes.**

It is quite clear there is no established group of buildings on this farm, Mr McAleer received planning permission for the farm building located in the south east corner of the field on 3<sup>rd</sup> October 2019. Members could refuse the application on the basis that it does not cluster or visually link with a group of buildings on the farm. That said, the policy provides an exception that states an alternative site away from a group of buildings will be acceptable where it meets the requirement of Policies CTY13(a-f), CTY14 and CTY16. As there is no group of buildings associated with this farm I consider it appropriate to assess the proposal under this exception in the policy.

The previous case officer report has considered the potential for a dwelling and garage to integrate on this site and has raised concerns about the potential visual impact of this. I agree that a dwelling would be visible on the site, but only when viewed from the public road immediately in front of the site and for approximately 200 metres on approach from Dungannon, as the vegetation to the west completely screens the site from view until the

end of the laneway, identified in fig 6 with the red arrow.



Fig 6 – view from the west, access to the site identified by red arrow

The photograph below (fig 7) shows the view from the west, a dwelling as proposed (siting shown with the blue arrow) could break the skyline here, as it does not benefit from screening or clustering with the existing farm building (red arrow) or the other development to the west (black arrow). A dwelling here could be prominent in the landscape, when seen from this critical view.



Fig 6, siting proposed in blue, existing agricultural building in red and other buildings in black

This application is for outline planning permission and as such the members can consider if there are any conditions that would make this development acceptable. If there are no conditions that could make it acceptable then the development should be refused.

Conditions can be attached that deal with the size, scale, design and location of a dwelling on the site as well as landscaping conditions that can require new planting to be provided and allow existing planting to be retained at a certain height.

It is clear there are long established boundaries on the south and west of the identified site as well as within the applicants control to the north and east boundaries of the field. These can be conditioned to grow on to a height of 3 metres to assist the integration of any dwelling. Additional landscaping can be conditioned along the side of the lane and the

curtilage of the proposed dwelling which will, in my opinion, also assist in the integration of a dwelling on the site, but is not solely relied upon to provide the screening.

Coupled with the above conditions I consider it would be appropriate to control the ridge height of any dwelling and reduce the ground levels to ensure the rising ground and hedges to the rear (south) can provide a suitable backdrop. In my assessment of the site, I consider siting the dwelling as proposed in the indicative site plan with the finished floor levels the same as the existing ground level at the NE curtilage of the proposed site and a ridge height of 5.5m above the finished floor levels would ensure that a dwelling here is not prominent in the landscape. I consider it would also be appropriate to limit the ridge height of any garage to 4m above finished floor levels and these should be the same as the dwelling.

Rural character is a visual assessment that takes into account the existing development and character of the surrounding area. This site is located beside a number of other dwellings and buildings. These are well screened from public view and set back from the public road. The workers cottage opposite the site has little in the way of vegetation around it and is the most obvious development in view. As can be seen in Fig 6 a dwelling in this site would not be critically viewed with other development as to give the impression that the area has reached a critical stage in terms of its character. As one moves along the Old Ballygawley Road from the east to the west the existing development is well screened and set back from the road, in my opinion, a dwelling of a suitably scale and design would also, in a short space of time be well screened and would not detract from the rural character. On approach from the west to the east, any one travelling along the road will not be aware on the dwelling until they are passed it. I do not consider a dwelling here would adversely impact on the rural character of the area.

The application form has indicated that any development here will be served by a septic tank. These can be a number of different types that could be acceptable here and the consent to discharge is a matter that is dealt with by the Environment Agency.

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.

### **Objections**

There have been a number of objections to the proposed development, when it was proposed as infill dwelling and when the details of the farming case were presented, these are summarised in Appendix 1 and a number of the issues raised have been addressed in the above considerations.

Urban sprawl relates to the spreading of settlements into the surrounding countryside in an unplanned fashion. In this case the site is well away from any settlements and would not result in urban sprawl.

The proposed development is for a dwelling, noise from cattle trucks coming and going to the site would be in relation to the agricultural activity and not this dwelling.

The objector has raised issues in relation to Human Rights, these may only be considered in respect to the proposal for a dwelling that is being considered. 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. 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 proposed dwelling can be located a suitable distance away from any other existing dwellings to ensure their right to enjoy their property is not adversely impacted. The final location of the dwelling will be subject to further consideration and as such anyone who has an interest may make further representations at that time. The European Convention, Article 6 also enshrines the right to a fair hearing. This application will be decided by the planning committee and any interested party may address 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.

In view of the above, it is my recommendation to the members that this proposal meets with the exception in CTY10 and that planning permission is granted with the conditions specified.

#### APPENDIX 1

Objections/representations received raise the following points:

dated 29/10/2020 - objection

planners should apply guidance for development in the countryside

dated 10/11/2020 – objection

application form completion:

- not proposed for dwelling on farm,
- there were previous applications refused on this site for Mrs Gillen

a laneway has been created was supposed to be grass path

Photos:

- sight lines to right not in place
- not infill as it is a small gap site, buildings are not on the road frontage, does not have appearance of built up area, building 4 not a building, just cow shelter

dated 10/11/2021 - representation

no objections provided no impact on 102 or 104

dated 18/11/2020 - objection

photos provided, map provided and neighbour notification letter provided

- vegetation removed
- not a gap site as accompanying development to the rear
- not a farmer

- M/2010/0554/O – application for 2 dwellings

dated 21/12/2020 – objection

Photos of cattle building provided

-same site previously refused for Mrs Gillen

- same site refused for 2 dwellings for applicant – (contrary to CTY1; CTY2a no focal point, no dev on 2 sides and no suitable degree of enclosure; CTY6 no special circumstances; CTY7 as no essential need for business; CTY13 as not suitable degree of enclosure; CTY14 – build up and does not respect character of the area)

dated 28/12/2020 - representation

no planning issues raised in this representation

dated 3/5/2021 - objection

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

dated 3/5/2021 - objection

- not supported by PPS21 paras 3.1, 3.2 CTY12 section 5.00, CTY13 section 5.57, CTY15 and CTY16

dated 3<sup>rd</sup> May 2021 - objection

- not for a farmer

dated 4/5/2021 - objection

includes extracts from previous report to planning committee recommending refusal

- only farming since 12/6/2019, no reason to deviate from regulations
- agree with planning officer, any dwelling would be unsatisfactory as not able to integrate and would not be in character as required by CTY13 and CTY14

date received by Planning Office 4 May 2021 - objection

- has not been farming for 6 years in sense of true farmer
- lacks integration and erodes rural character and would create urban sprawl

date received by Planning Office 5 May 2021 - objection

- not infill
- noise from cattle trucks entering and leaving the site
- loss of privacy

dated 12 May 2021 - representation

-support for the application, refers to previous support letter as not being uploaded,

- owns the lane and others only have a right of way

- the applicant assists with maintenance of the lane and hedges

- previous letter advises:

- Mr McAleer has been farming the land since he purchased it, repairing fencing and drains on his land and on the writers land

- the development will not impact the rural area and will not transform it into a suburban development



date received by Planning Office 19 May 2021- rebuttal of information submitted in support of farming case

Sean Rafferty letter Appendix I Drainage Works

- Mr McAleer did not own the land in 2007, land registry documents attached,
- query flooding issue as not declared on P1 form

Ciaran O'Donnell letter Appendix Major Drainage Works

- Mr McAleer did not own the land in 2017, land registry documents attached,
- query flooding issue as not declared on P1 form,
- photos not of the site as no buildings shown
- billheads not acceptable proof, no departmental proof

Blackbird Letter dated 1 December 2017

- applicant has stated he is not active and established as a farmer, does not claim single farm payment

Ann McNulty letter Appendix L – Letter of Support

- objector claims they own the lane as it was to his parents small farm
- query flooding issue as not declared on P1 form
- land farmed by Mrs Davidson until 2019

Shirley Davidson/David Davidson letter Appendix M Conacre letter

- Mr McAleer did not own the land in some of the years, passed to another owner on 12 June 215, land registry documents enclosed
- Mrs Davidson was the sole farmer of the land

dated 24<sup>th</sup> May 2021 – objection

- the area has been the subject of a number of planning applications over the years
- development impacting on human rights
- the proposal is not an infill site, no frontage to road and accompanying development to the rear
- not an active farmer, previous application for shed states this and did not show that it farming was active for 6 years
- shed approved as an exception to planning policy as was not an active farmer
- only one building on the farm cannot cluster with buildings on the farm
- new laneway provided to the site, did not use existing as preferred by planning
- do not consider having 3 sheep constitutes being a farmer
- DEARA Legislation states active farmer is one who can claim for Basic Payment Scheme (BPS) Cat 3 farmers cannot
- to allow this would allow others to do the same thing

dated 15/6/2021 - objection

- application form, enclosed, clearly indicates this is not for a dwelling on a farm

dated 24/6/2021 – objection

- need to consider the viability of the farm
- brief history of the land: site has been refused planning for dwelling, was sold at the height of the market, around 2008, site put up for sale approx. 4 years ago and only attracted lower bids, owner applied for other development since

- proposal is contrary to CTY1, CTY2a, CTY6, CTY8, CTY13, CTY14, CTY12
- farmer never bought cattle

## APPENDIX 2

Extract from Regulation (EU) No 1307/2013

c)

"agricultural activity" means:

- (i) production, rearing or growing of agricultural products, including harvesting, milking, breeding animals, and keeping animals for farming purposes,
- (ii) maintaining an agricultural area in a state which makes it suitable for grazing or cultivation without preparatory action going beyond usual agricultural methods and machineries, based on criteria established by Member States on the basis of a framework established by the Commission, or
- (iii) carrying out a minimum activity, defined by Member States, on agricultural areas naturally kept in a state suitable for grazing or cultivation;

### 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 be limited to the area identified 'proposed new boundary hedge' on the approved plan No. 02 which was date stamp received 21<sup>st</sup> September 2021.

Reason: To ensure that the development integrates into the landscape.

4. The dwelling hereby permitted shall have a ridge height not more than 5.0m above the finished floor level and the garage hereby approved shall not have a ridge height exceeding 4.0m above the finished floor level.

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

5. The finished floor levels of the dwelling and garage hereby permitted shall not exceed the level of the existing ground level at point A as annotated on drawing number 01 bearing the stamp dated 21 SEP 2020.

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. The north west, northeast and south east boundaries of the area identified in red and blue on drawing No 01 bearing the stamp dated 21 SEP 2020 shall be allowed to grow up to a height of at least 3 meters and shall be retained at that height. 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 90.0m in both directions and a forward sight distance of 90.0m. 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.

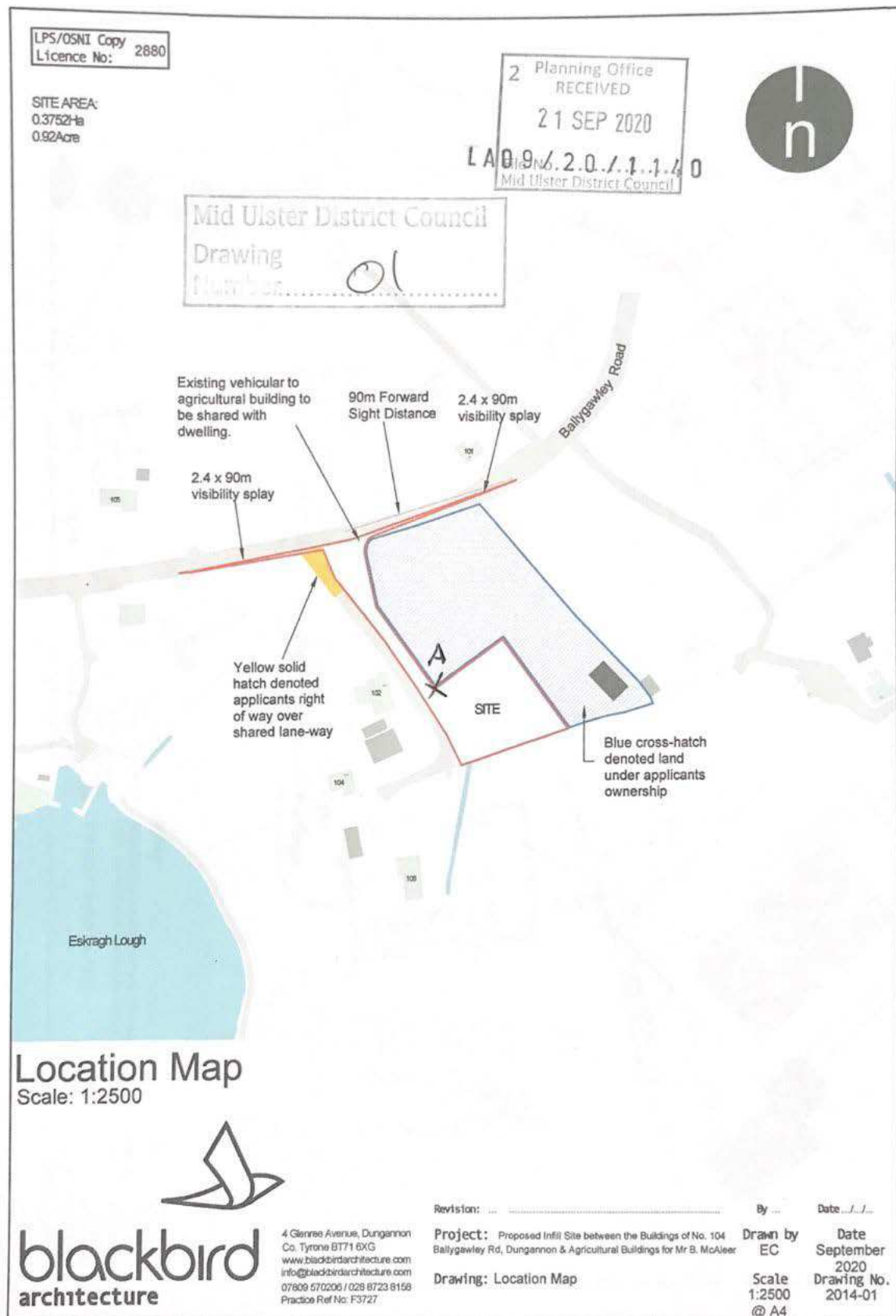
3. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

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 point A identified





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> 01/01/2020
<b>Proposal:</b> An infill dwelling and detached garage	<b>Location:</b> Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
<b>Referral Route: Objections, recommendation to refuse</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	<b>Agent Name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Executive Summary:</b> Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Representations:

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

### Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

### **Description of proposal**

This is an outline planning application for an infill dwelling and detached garage in the countryside.

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

This site is located in the SE corner of a larger agricultural field, and is accessed via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicant's ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

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

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

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

**Key Planning Policy**

SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

**Design Guidance: Building on Tradition**

**Relevant Planning History**

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

#### Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

#### Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

#### Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

This site is located adjacent and west of an existing agricultural building. This building is set back approx. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

**Other considerations**

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That permission is refused for the following reasons;

**Refusal Reasons**

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	21st September 2020
<b>Date First Advertised</b>	6th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
<b>Date of Last Neighbour Notification</b>	10th December 2020
<b>Date of EIA Determination</b>	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
<b>ES Requested</b>	No





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1140/O	<b>Target Date:</b> 01/01/2020
<b>Proposal:</b> An infill dwelling and detached garage	<b>Location:</b> Between 104 Ballygawley Road and an agricultural building 100m North East of 104 Ballygawley Road Glenadush
<b>Referral Route: Objections, recommendation to refuse</b>	
<b>Recommendation:</b>	Refuse
<b>Applicant Name and Address:</b> Mr Bernard Mc Aleer 7 Glenree Avenue Dungannon	<b>Agent Name and Address:</b> Blackbird Architecture Ltd 4 Glenree Avenue Dungannon BT71 6XG
<b>Executive Summary:</b> Contrary to CTY1, 8, 13 and 14 of PPS21. The site does not meet the criteria for a gap site, is prominent, lacks integration and will further erode rural character.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



### Representations:

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

### Summary of Issues

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

### **Description of proposal**

This is an outline planning application for an infill dwelling and detached garage in the countryside.

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

This site is located in the SE corner of a larger agricultural field, and is access via an existing gravel access which runs along the SW boundary of the field. The NE and NW boundaries of the site are not clearly defined, the boundary to the west to the access lane is defined by a mature tree lined hedgerow approx. 4-5m high while the SE boundary is defined by a 2m high maintained hawthorn hedge.

The application site is located between number 102 Ballygawley Road to the west and a newly constructed shed which was granted permission under LA09/2018/1349/F to the west. Access to the shed runs along the western and southern boundaries of the site, this right of way is not shown on the site location map.

The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The shed and the remainder of the agricultural field are within the applicants ownership/control and are highlighted in blue. In terms of elevation the site is elevated in the landscape when viewed from the public road as land rises steadily from roadside up the lane towards the site to the top of a local drumlin. No land rises beyond the site and there is little or no backdrop.

Nos 102, 104, 106 Ballygawley Road are residential dwellings located to the west of the site. These dwellings are located along an existing laneway from Ballygawley Road and are accompanied by associated outhouses, garages and sheds. On the opposite side of the road there are 2 detached single dwellings separated by agricultural land.

The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

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

Dungannon and South Tyrone Area Plan 2010:

The plan offers no specific policy relevant to this application as the site lies outside any settlement limit defined in the Dungannon and South Tyrone Area Plan 2010.

Key Planning Policy

SPPS

PPS21 Sustainable Development in the Countryside

PPS3 Access, Movement and Parking

Design Guidance: Building on Tradition

Relevant Planning History

LA09/2018/1349/F- full planning permission was granted for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds. Granted 03.10.2019. At the time of my site visit this building and access was in place.

LA09/2017/0899/F- permission was refused for cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds on 11.09.2018 for the following reason;

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years and that the development, if permitted, would result in a detrimental impact on the amenity of nearby residential dwellings by reason of noise, odour and flies due to its close proximity. The decision was never appealed.

M/2010/0554/O- Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone, for Bernard McAleer. This permission was refused on 09.11.2010 for the following reasons;

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

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster is not associated with a focal point and / or is not located at a cross-roads; the proposed site is not bounded on at least two sides

with other development in the cluster and does not provide a suitable degree of enclosure; the dwellings would if permitted significantly alter the existing character of the cluster and visually intrude into the open countryside.

3.The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not provided satisfactory long term evidence that new dwellings are a necessary response to the particular circumstances of the case and that genuine hardship would be caused if planning permission were refused and/ or it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4.The proposal is contrary to Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that there is a site specific need for the proposed dwelling that makes it essential for an employee to live at the site of their work.

5.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

6.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This site incorporated both LA09/2018/1349/F and this subject application site LA09/2020/1140/O. The decision was never appealed.

#### Representations

A number of 3rd party representations have been received on this proposal. Issues raised are summarised below;

-One representation states that they have no objection to the proposal as long as it does not impinge on the properties of No. 102 and 104 and that all the existing planning regulations and laws are adhered to;

I am not treating this proposal as an objection as, with every case, I aim to process objectively in line with planning regulations and laws.

Another objection received from Joe McNulty is summarised as follows;

-The main body of the objection concentrates on how this proposal does not meet the planning criteria of an infill dwelling (policy CTY8 of PPS21) and is accompanied by a number of photographs to demonstrate this interpretation of policy;

I will consider these objections later in my report.

-some of the objection relates to a previously approved application LA09/2018/1349/F for an agricultural shed to the east of the site. These objections relate to how this application was granted permission. As a decision has been reached and no further challenge is outstanding on this decision it is my view that these points are not relevant

or material to my assessment as the decision has been made and the agricultural building in place.

The agent has provided an e-mail rebutting some of these objections. In his e-mail the agent states that Mr. McNulty's objection does not state any grounds for objection. Since this e-mail Mr McNulty has provided a further objection which does expand on his concerns and will be considered later. The agent also makes it clear that his Statement of Case clearly demonstrates how his site meets the criteria of CTY8 of PPS21.

#### Consideration

SPPS Strategic Planning Policy Statement for Northern Ireland sets out a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulsters 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 and must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety.

#### Planning Policy Statement 21 Sustainable Development in the Countryside

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A range of examples of development which are considered to be acceptable in the countryside are set out in policy CTY 1, one of these being the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8.

Policy CTY 8 Ribbon Development allows for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

This site is located adjacent and west of an existing agricultural building. This building is set back approx.. 120m from the public road, with the land between the building and the roadside being defined as an existing undeveloped agricultural field. The proposed site is also set back approx. 120m from the public road, and proposes to share the existing access to the agricultural shed. In my view neither the agricultural shed or proposed site represents road frontage development.

This proposed gap site also relies on buildings to the west for consideration as a gap site. No. 102 does not have a frontage to the road, as there is a small agricultural field

between its curtilage and the public road. Plus, No. 102 has accompanying development to the rear, including No 104 and 106 and accompanying sheds, outhouses and garages. The policy is clear that the frontage, which in my view this is not, cannot have accompanying development to the rear which this clearly does.

Given the setback from the public road, and the nature and context of other development in this area, it is my view that this site does not represent a gap within an otherwise continuous and built up frontage.

M/2010/0554/O was refused for 2 dwellings on this site, however, CTY8 did not seem to form part of the assessment and was not included as a reason for refusal in the decision notice. Policy CTY2a and other personal circumstances seemed to form the basis of the assessment. It is my view that this proposal does not meet that criteria of CTY2a in that the site is not associated with a focal point, does not provide a suitable degree of enclosure and the dwelling would if permitted significantly alter the existing character of this area of countryside.

No personal circumstances have been provided in this instance and no other case has been forwarded by the agent for consideration.

In the agents assessment of the gap, he relies on buildings that clearly do not have a road frontage or shared frontage, and are set behind existing development which the policy resists (see building 01 and 02 indicated on drawing No. 03). Plus, building No. 4 indicated on drawing No. 03 is not visible in the landscape and is not read as a visual entity in the landscape when assessing the built up frontage, as it cannot be clearly viewed from public vantage points and in my view is not road frontage.

In terms of policy CTY13 and 14, it is my view that a dwelling of any size or scale cannot satisfactorily integrate onto this site. The site is elevated from the public road, any dwelling will break the skyline and there is no backdrop when viewed from the public road. There is insufficient vegetation to assist with integration. Plus a dwelling will read with other dwellings and development in the area which will lead to a further erosion of rural character.

Previously on the site under M/2010/0554/O for 2 dwellings, it was considered by the then Department under the same policy PPS21, that development on this site would be contrary to;

- Policy CTY13 of Planning Policy Statement 21 in that the proposed buildings would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the buildings to integrate into the landscape.

- Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to further erode the rural character of the countryside.

This decision or reasons for refusal were never appealed by the applicant and I am of the same view that the proposal would be contrary to CTY13 and 14.

PPS3 Access, Movement and Parking

DfI Roads were consulted on the proposed vehicular access to this site and they raise no objections to the proposal subject to sight splays of 2.4m by 90m in both directions and a forward sight distance of 90m with no blind spots where the access is on the inside of a bend.

**Other considerations**

The site is not subject to flooding. No land contamination issues have been identified. The site is not located within a protected area, nor is it close to built heritage or archaeological interests.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

That permission is refused for the following reasons;

**Refusal Reasons**

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

2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not represent a small gap sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage. The proposal would not respect the existing development pattern along the frontage in terms of size, scale, siting and plot size and as a result would have a detrimental impact on the character of this area of countryside.

3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling would be a prominent feature in the landscape which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for it to integrate into the landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode, the rural character of this area of countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	21st September 2020
<b>Date First Advertised</b>	6th October 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 101 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, BT70 1TA Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 105 Ballygawley Road,Dungannon,Tyrone,BT70 1TA The Owner/Occupier, 106 Ballygawley Road,Dungannon,Tyrone,BT70 1TA Brian Donoghue Carraig Na Moil, Glendadush, 105 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA Eamonn Cushnahan Email Address	
<b>Date of Last Neighbour Notification</b>	10th December 2020
<b>Date of EIA Determination</b>	No need to screen as not schedule 1 or 2 development, nor is the site located within a sensitive area
<b>ES Requested</b>	No





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2020/1322/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> Adj to 59 Drumaspil Road, Drumcrow Dungannon
<b>Applicant Name and Address:</b> Eamonn Donnelly 59 Drumaspil Road Drumcrow Dungannon BT71 6HZ	<b>Agent name and Address:</b> Peter McCaughey 31 Gortnasaor Dungannon BT71 6DA
<b>Summary of Issues:</b> The application is for a small holding, the applicant owns this field and the site is located beside his mother and fathers house. There are special domestic circumstances for choosing this site.	
<b>Summary of Consultee Responses:</b> DFI Roads – access achievable	
<b>Characteristics of the Site and Area:</b>  The site is located at lands adjacent to 59 Drumaspil Road. The red line of the site includes a rectangular portion of a larger agricultural field. There are lands which surround the site which are hatched blue, indicating ownership. The lands are generally quite flat throughout with some hedging and post and wire fencing along the SE boundary. The immediate area surrounding the site is made up with a number of existing dwellings and associated outbuildings, however beyond that the lands are largely rural in nature.	

**Description of Proposal**

The proposal seeks outline planning permission for a site for a dwelling.

**Deferred Consideration:**

This application was at the planning committee meeting in October 2021 with a recommendation to refuse and it was deferred for an office meeting with the Planning Manager.

An office meeting was held with the Planning Manager where the agent was asked to explore if there is a farming case for a dwelling here.

At the meetings and since, additional information was presented in relation to the applicants farming interests and these are:

- the applicant owns this field which is 1.0ha in area and his parents live next door on a 0.2ha plot,
- the applicant cuts the grass and the hedges on the field and also employs an agricultural contractor to carry out works to the lands and maintain hedges and cut grass, the contractor has advised this has been the case for more than 6 years but is unable to provide invoices for the works
- the applicant has been unable to obtain any further receipts from others who he has employed to carry out work to the lands

A dwelling on a farm is considered against Policy CTY10 in PPS21 and sets out 3 criteria that must be met:

- a) that the farm business is currently active and has been established for at least 6 years

The applicant does not have a business ID with DEARA. Agricultural activity is defined in the policy as the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition. While it would be helpful to have receipts and other information to show there is an income and outgoings that would constitute a farm business, I have noted the field is maintained in good agricultural condition with the grass cut and the hedges maintained. Aerial photographs in 2013 appear to indicate the land is in poorer condition however more recent aerials show the grass in better condition which I can only conclude is due to works being carried out to maintain the ground in good agricultural condition.



As the applicant has stated they own the ground and have been maintaining it I am of the view this is an active and established farm and criteria a has been met.

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.

I have checked the land that the applicants own here and I am content this part of the policy is met..

b) 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.

The applicants father and mother live next door to the site and they have a dwelling and garage. This is only 2 buildings and does not constitute a group of buildings for the purposes of the policy, as such the application does not meet Policy CTY10 and members could refuse for this reason. However the applicant has proved medical information in relation to his parents ongoing health issues. Having looked at this information, I do not consider these circumstances themselves would justify a dwelling here under CTY6, however I do consider it could be grounds to allow an exception against the requirement to site beside a group of buildings on the farm. I consider a dwelling located in the south east corner of the field would be close enough to allow the applicant to provide some care and oversight for his parents and also to appear to cluster with the dwelling and garage of the applicants parents. Due to the special circumstances resented I consider it appropriate to

allow this as an exception to criteria c in the policy and recommend planning permission is granted.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy: was launched on 22<sup>nd</sup> February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28th May 2021 for them to carry out an Independent Examination. In light of this the draft plan cannot currently be given any 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. To enable the Council to consider in detail the proposed development of the site.

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

Reason~: To respect the character of the surrounding area and aid integration.

4. The dwelling hereby approved shall be sited in and its curtilage (except for access laneway) shall not extend beyond the area identified in green on drawing no 01 bearing the stamp dated 31 OCT 2020.

Reason: To ensure the proposal is not prominent in the landscape

5. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4mx 35.0m and a 35.0m forward sight distance shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

Reason: In the interests of road safety

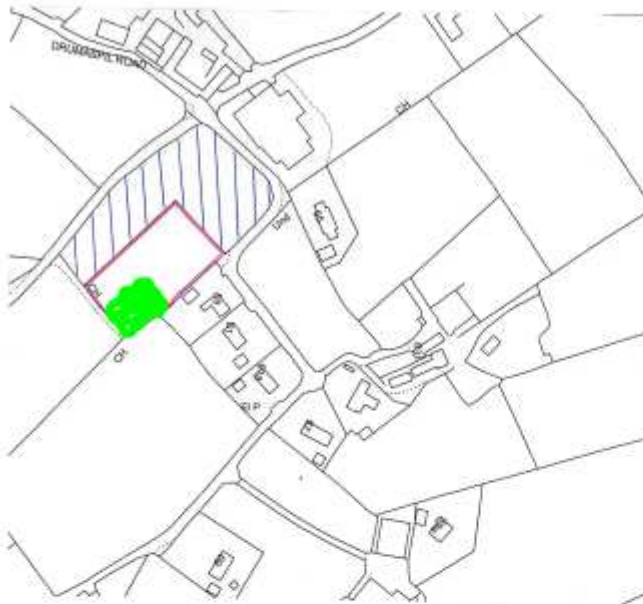
6. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted along all new boundaries of the site identified in green on drawing No 01 bearing the stamp dated 31 OCT 2020. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

**Signature(s):**

**Date**

# LOCATION MAP



PROPOSED DWELLING ADJACENT TO 59, DRUMASPIL RD,  
DRUMCROW, DUNGANNON, CO TYRONE, FOR  
Mr EAMONN DONNELLY OF 59, DRUMASPIL ROAD,  
DRUMCROW, DUNGANNON, CO TYRONE.

Plan No. 161 13. NE.

Scale 1:2500.

Site boundaries edged red.  
Additional land owned hatched blue.





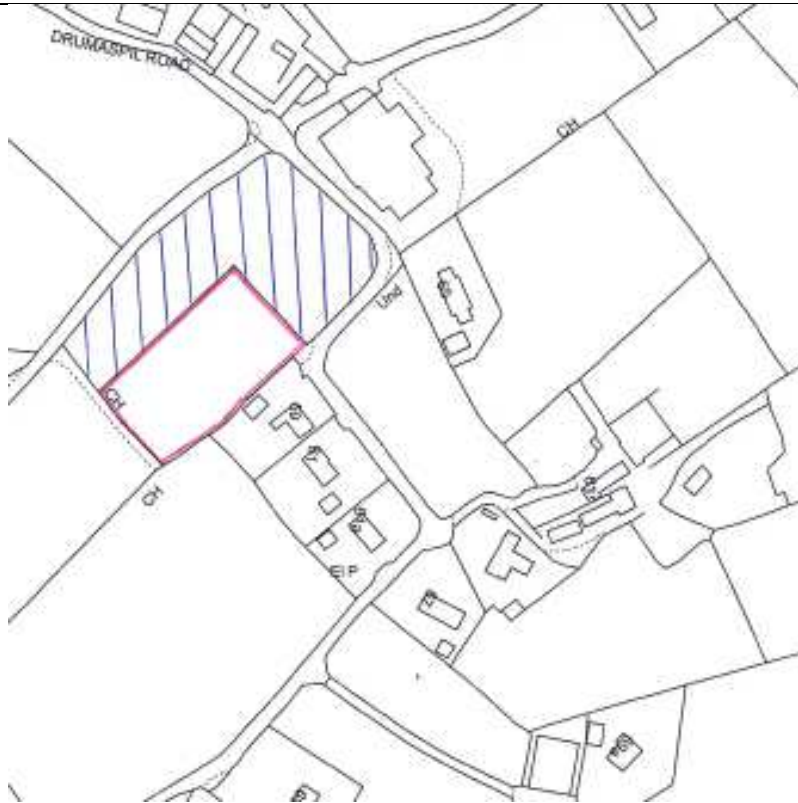
**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1322/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling.	<b>Location:</b> Adj to 59 Drumaspil Road, Drumcrow Dungannon
<b>Referral Route:</b> Refusal – Contrary to CTY 1 of PPS 21.	
<b>Recommendation:</b>	REFUSAL
<b>Applicant Name and Address:</b> Eamonn Donnelly 59 Drumaspil Road Drumcrow Dungannon BT71 6HZ	<b>Agent Name and Address:</b> Peter McCaughey 31 Gortnasaor Dungannon BT71 6DA
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan





<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Standing Advice
<b>Representations:</b>		
Letters of Support	1 (from agent)	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
There were no objections received in relation to the proposal.		
<b>Characteristics of the Site and Area</b>		
The site is located at lands adjacent to 59 Drumaspil Road. The red line of the site includes a rectangular portion of a larger agricultural field. There are lands which surround the site which are hatched blue, indicating ownership. The lands are generally quite flat throughout with some hedging and post and wire fencing along the SE boundary. The immediate area surrounding the site is made up with a number of existing dwellings and associated outbuildings, however beyond that the lands are largely rural in nature.		
<b>Description of Proposal</b>		
Outline planning permission is sought for a proposed dwelling.		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<u>Planning History</u>		
There is not considered to be any relevant planning history associated with this site.		
<u>Representations</u>		
Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. Neighbours notified include: 59 Drumaspil Road. At the time of writing, no third party representations have been received.		
<u>Planning Assessment of Policy and Other Material Considerations</u>		
<ul style="list-style-type: none"><li>• Dungannon and South Tyrone Area Plan 2010</li><li>• Strategic Planning Policy Statement (SPPS)</li><li>• PPS 21: Sustainable Development in the Countryside</li><li>• PPS 3: Access, Movement and Parking</li><li>• Local Development Plan 2030 - Draft Plan Strategy</li></ul>		
The Dungannon and South Tyrone Plan 2010 identifies the site as being in the rural countryside. There are no other zonings or designations within the Plan.		

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

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

Policy CTY1 provides clarification on which types of development are acceptable in the countryside. The agent was asked what policy they would like the proposal to be assessed against and a number of policies were suggested, including CTY 2a, CTY 6 and CTY 10 so each of these policies will be addressed within this report.

CTY 2a of PPS 21 permission will only be granted for a dwelling at an existing cluster of development provided 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 dwelling. This proposal site lies outside of a farm and consists of more than 4 buildings thus adhering to this criteria. There is a crossroads located approx. 75m north of the red line of the site which is considered to be too far removed from the site. The site does not have any other focal point and thus fails on this criterion. The identified site is also is not bounded on two sides by development therefore failing on this policy requirement also. Having considered all these points I feel this proposal fails with the requirements of CTY 2a.

Policy CTY 6 of PPS 21 permits a dwelling in the countryside for the long-term needs of the applicant, where there are compelling and site specific reasons for this related to the applicants personal or domestic circumstances and provided the following criteria are met:

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

The agent has submitted a letter in support of this application which details why the applicant feels they meet the Policy requirements of CTY 6. Medical evidence has been sought via phone call on 20<sup>th</sup> May 2021 from the agent to substantiate the information within the letter provided, however to date nothing further has been received from the

agent or applicant. Due to the sensitive and personal nature relating to the applicant's parent, the specifics of the supporting information will not be detailed in this report.

It is considered that this proposal fails on criterion (b) of CTY 6, where are alternative solutions to meet the particular circumstances of the case. We feel that an extension or annex attached to the existing dwelling would be a possibility in this instance. The curtilage of the existing dwelling which is noted as the applicants address alongside his parents is large enough to be able to accommodate this with ease. In this instance, although we remain empathetic towards the applicant and their families circumstances, we feel that there are alternative available to the applicant and thus the proposal fails criterion (b) of CTY 6 and as such must be recommended for refusal.

We also investigated the possibility of a proposed dwelling being allowed under CTY 10 for a dwelling on a farm. One receipt was received from M. Campbell dated 19<sup>th</sup> April 2021 which stated that they confirm they carried out agricultural works on the lands for about 8 years. Again, this wouldn't be enough information for us to be able to determine if the farming business is currently active and has been established for over 6 years. No further information was received in relation to a farming business despite requests dating back to May 2021.

CTY 13 and CTY 14 deal with rural character and the integration and design of buildings in the countryside. As this is an outline application, the details of the design, access and landscaping would be reviewed at reserved matters stage if approval were to be granted. The site benefits from some existing hedging along its southern and western boundaries, however the remainder of the boundaries appear undefined therefore integration may be quite limited at this site. The proposed site may also create or add to a ribbon of development at this location.

DfI Roads were consulted in relation to the proposal and have raised no concerns, subject to condition.

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation:</b>
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Refusal is recommended.
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<b>Conditions/Reasons for Refusal:</b>
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1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
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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 is not located at a cross-roads. The proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure. The dwelling would if permitted significantly alter the existing character of the cluster visually intrude into the open countryside.
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3. The proposal is contrary to Policy CTY6 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been demonstrated that there are no alternative solutions to meet the particular circumstances of this case.

4. 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 is currently active and has been established for at least six years.

5. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Drumaspil Road.

6. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	23rd October 2020
<b>Date First Advertised</b>	3rd November 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Peter McCaughey 31 Gortnasaor, Dungannon, BT71 6DA The Owner/Occupier, 59 Drumaspil Road Drumaspil Dungannon	
<b>Date of Last Neighbour Notification</b>	26th November 2020
<b>Date of EIA Determination</b>	

<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2020/1322/O Proposal: Proposed dwelling Address: Adj to 59 Drumaspil Road, Drumcrow, Dungannon, Decision: Decision Date:  Ref ID: M/1992/0374 Proposal: Extension to dwelling Address: 59 DRUMASPIL ROAD DRUMCROW DUNGANNON Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DfI Roads – Content.	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0129/O	<b>Target Date:</b> 29 March 2021
<b>Proposal:</b> Proposed site for dwelling house & double domestic garage.	<b>Location:</b> 40M (Approx.) Ne Of 2 Ballynagilly Road Cookstown Co Tyrone BT80 9SX.
<b>Applicant Name and Address:</b> Mr James Harkness Crieve House 91 Loughfea Road Cookstown BT80 9SR	<b>Agent name and Address:</b> R G Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
<b>Summary of Issues:</b>  Two objections have been received  The proposal is contrary to the SSPS and policies CTY 1, CTY 2a, CTY 8 and CTY 14 of PPS 21.	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is located within the open countryside, outside any settlement limits as defined by the Cookstown Area Plan. The red line of the application site is located in the north western corner of a larger piece of land which is densely planted with trees. The site sits at a level slightly lower than the road and is a flat piece of land. The site has strong boundaries on all sides given the densely planted woodland on site. The surrounding area is mainly agricultural, with a number of single dwellings located to the west of the site travelling along the ballynagilly road. There is a dwelling located immediately south west of the application and another located to the west.	



**Description of Proposal**

This is an outline planning application for a proposed site for a dwelling house and double domestic garage 40m NE of 2 Ballynagilly Road, Cookstown.

**Deferred Consideration:**

This application was presented before the Members in May 2021 with a recommendation to refuse, and it was agreed by Members to defer the application for an office meeting with the Service Director. The deferred office meeting took place on 18 November 2021.

Following the deferred office meeting I carried out a site visit. As per the case officer's report for the Committee meeting in May 2021 I agree with the conclusion that an approval on the application site will add to a ribbon of development which is contrary to Policy CTY 8 of PPS 21. The agent contended at the office meeting the site will not be seen as it is in a forested area. However, the proposed access to the new dwelling will allow the public to see and know there is a dwelling at this location. The agent was questioned on a possible farming case on behalf of the applicant. Following the office meeting we received a farm map from 2017. The application site is not sited to cluster or visually link with the farm buildings. Having spoken to the agent on 5th and 20th January 2023, he confirmed the applicant does not wish to pursue a farming case as he does not want a new dwelling to be sited beside his farm as he wishes to sell on the application site if it is approved. As there is no farming case, and this is confirmed in January 2023, and a new dwelling at this location will add to a ribbon of development I recommend a continued refusal of this application for the reasons set out below.

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.

**Signature(s):**Karen Doyle

**Date:** 20 January 2023



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0129/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling house & double domestic garage.	<b>Location:</b> 40m (approx.) NE of 2 Ballynagilly Road Cookstown Co Tyrone BT80 9SX.
<b>Referral Route:</b>  Contrary to policy and objections received	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr James Harkness Crieve House 91 Loughfea Road Cookstown BT80 9SR	<b>Agent Name and Address:</b> R G Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

## Representations:

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

## Summary of Issues

Two objections have been received

The proposal is contrary to the SSPS and policies CTY 1, CTY 2a, CTY 8 and CTY 14 of PPS 21.

## Characteristics of the Site and Area

The site is located within the open countryside, outside any settlement limits as defined by the Cookstown Area Plan. The red line of the application site is located in the north western corner of a larger piece of land which is densely planted with trees. The site sits at a level slightly lower than the road and is a flat piece of land. The site has strong boundaries on all sides given the densely planted woodland on site. The surrounding area is mainly agricultural, with a number of single dwellings located to the west of the site travelling along the ballynagilly road. There is a dwelling located immediately south west of the application and another located to the west.



**Description of Proposal**

This is an outline planning application for a proposed site for a dwelling house and double domestic garage 40m NE of 2 Ballynagilly Road, Cookstown.

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

The Cookstown Area Plan identifies the site as being outside any defined settlement limits. There are no other specific designations or zonings.

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

The 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 dwellings in clusters and infill/ribbon development among others. Section 6.77 states that "proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety".

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases that would allow for planning permission for a single dwelling in the countryside. However, the proposal does not meet any of the policies listed within CTY 1.

At application stage the agent did not provide any additional information or details as to what policy criteria they want the application to be assessed under however, the proposal does not meet any of the policies listed.

Policy CTY2a relates to planning permission within an existing cluster of development provided it meets all the criteria listed including that the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads which is not the case. The policy also states that 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 only bounded on one side. As a result, the proposal fails to meet policy CTY 2a.

Policy CTY 6 states that permission will be granted for a dwelling in the countryside for the long-term needs of the applicant, where there are compelling, and site specific reasons for this related to the applicant's personal or domestic circumstances. No compelling evidence has been provided to be assessed under this policy.

Policy 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 it respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.

In terms of a continuous and built up frontage I am content whilst travelling west of the Ballynagilly Road, No2a, 2, 4 & 6 Ballynagilly Road represents an continuous and built up frontage. However, as there is no development to the east of the site, there is no gap, which can be filled. As a result, the policy fails to meet the exception to Policy CTY8.

No farm information has been provided to allow the application to be assessed under CTY 10.

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. Given the strong level of planting existing on site, I am content a dwelling located here would not require additional planting to integrate and a dwelling would blend with the existing landform of strong planting.

Policy 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 the area. I am content that a dwelling in this location would not be a prominent feature in the landscape and a well-designed dwelling would respect the pattern of development. As previously noted the proposal fails under policy CTY 8 in that I do not consider this a gap site between a substantial and continuously built up frontage and as a result it not only would lead to forming ribbon but also result in a change to the rural character. A dwelling at this location would result in a suburban style of build-up of development when viewed with the existing dwellings to the west of the site. I believe the site, which is defined by its strong mature woodlands, represents an important visual break in relation to the other houses along the Ballynagilly Road.

#### PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

The main points raised in the objection letters received are that a dwelling located at this application site would impact upon neighbouring amenity in terms of overlooking and overshadowing. However, as this is an outline application these concerns could not be fully assessed, but I do not believe this would be an issue. The objector also raised concerns that a dwelling here would impact on the rural character of the area and this has been addressed within the body of the report above. The objection also raised concerns with road safety however, DfI Roads were consulted and had no objection and I do not believe a single dwelling here would lead to any road safety concerns listed by the objector. Furthermore, the objector states the site is located within an Area of Outstanding Natural Beauty but this is not the case. However the objector raised concerns regarding the loss of habitats for animals in the area including some protected species. I do consider these valid concerns, however as the application is recommended for refusal it was deemed unnecessary to request further information from the applicant and subsequently consult NIEA at this time.

#### **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 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 CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted would add to a ribbon of development resulting in a suburban style build-up and, as such would cause a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	1st February 2021
<b>Date First Advertised</b>	16th February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Ballynagilly Road Cookstown Tyrone James McCusker 2 Ballynagilly Road, Cookstown, Co Tyrone, BT80 9SX The Owner/Occupier, 2a ,Ballynagilly Road,Cookstown,Tyrone,BT80 9SX The Owner/Occupier, 4 Ballynagilly Road Cookstown Tyrone James McCusker	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0129/O Proposal: Proposed site for dwelling house & double domestic garage. Address: 40m (approx.) NE of 2 Ballynagilly Road, Cookstown, Co Tyrone BT80 9SX., Decision: Decision Date:  Ref ID: I/1993/0376 Proposal: Dwelling Address: 150M WEST OF JUNCTION OF LOUGH FEA ROAD AND BALLYNAGILLY ROAD COOKSTOWN Decision: Decision Date:  Ref ID: I/1989/0179 Proposal: Dwelling Address: 150M WEST OF JUNCTION OF LOUGH FEA ROAD AND BALLYNAGILLY ROAD COOKSTOWN Decision: Decision Date:  Ref ID: I/1989/0416 Proposal: 11 KV Rural Spur Address: BALLYNAGILLY ROAD CREEVE COOKSTOWN Decision: Decision Date:	

Ref ID: I/1994/0396  
 Proposal: Dwelling  
 Address: 150M W OF JUNCTION OF LOUGH FEA ROAD & BALLYNAGILLY ROAD  
 COOKSTOWN  
 Decision:  
 Decision Date:

Ref ID: I/2003/0097/O  
 Proposal: Dwelling and garage (domestic)  
 Address: Site adjacent and to the east of 4 Ballynagilly Road, Cookstown  
 Decision:  
 Decision Date: 23.06.2003

Ref ID: I/2004/0657/O  
 Proposal: Dwelling & Garage  
 Address: 80m (Approximately) South East of 4 Ballynagilly Rd, Cookstown  
 Decision:  
 Decision Date: 08.12.2005

Ref ID: I/2007/0325/RM  
 Proposal: Proposed dwelling and domestic garage  
 Address: Approx 80m south east of 4 Ballynagilly road, Cookstown  
 Decision:  
 Decision Date: 21.08.2007

Ref ID: I/2004/0260/F  
 Proposal: One and a half storey dwelling and garage.  
 Address: East of 4 Ballynagilly Road, Cookstown.  
 Decision:  
 Decision Date: 17.05.2004

#### **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

#### **Notification to Department (if relevant)**

Date of Notification to Department:  
 Response of Department:





### Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0599/O	<b>Target Date:</b> 9 June 2021
<b>Proposal:</b> Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	<b>Location:</b> Adjacent And To The N.W. Of 6 Rogully Road Loup Moneymore
<b>Applicant Name and Address:</b> Ashling MC Nicholl 1 Rogully Road Loup Moneymore	<b>Agent name and Address:</b> Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is located approximately 0.45km south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.  <b>Representations</b> Three neighbour notification were sent out however no representations were received.	



### **Description of Proposal**

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

### **Deferred Consideration:**

This application was presented before the Planning Committee in December 2021 with a recommendation to refuse, where it was agreed by Members to defer the application for an office meeting with the Service Director. The application was presented in January 2023 with a recommendation to refuse and Members agreed to defer the application for a site visit which took place 24 January 2023

This application is being considered under Policy CTY 8 and it 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. For the purposes of CTY 8 the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

At the site visit I pointed out the buildings at nos 2, 4 and 4b do not have a frontage to the Rogully Road. For the purposes of policy CTY 8, a building has a frontage to the road if the plot on which it stands abuts or shares a boundary with the road. The buildings at Nos 2, 4 and 4b all have a physical separation from the Rogully Road, either a fence, hedge or tree line and these prevent the buildings from having a road frontage.

As such this application does not meet the requirements to be considered as a exception to CTY 8 for a building which will add to a ribbon of development and I therefore recommend a continued refusal of this application based on the reasons below.

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

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

##### **Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Rogully Road as the site is not within a substantial and continuously built up frontage.

##### **Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable

Development in the Countryside in that the buildings would, if permitted, add to a ribbon of development and would not respect the traditional pattern of settlement exhibited in that area and thereby will result in a suburban style build-up of development when viewed with existing and approved building resulting in a detrimental change to further erode the rural character of the countryside.

**Signature(s):**Karen Doyle

**Date:** 24 January 2023





### Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0599/O	<b>Target Date:</b> 9 June 2021
<b>Proposal:</b> Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	<b>Location:</b> Adjacent And To The N.W. Of 6 Rogully Road Loup Moneymore
<b>Applicant Name and Address:</b> Ashling MC Nicholl 1 Rogully Road Loup Moneymore	<b>Agent name and Address:</b> Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is located approximately 0.45km south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.  Representations Three neighbour notification were sent out however no representations were received.	



**Description of Proposal**

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

**Deferred Consideration:**

This application was presented before the Planning Committee in December 2021 with a recommendation to refuse, where it was agreed by Members to defer the application for an office meeting with the Service Director. Following the office meeting I carried out a site visit.

This application is being considered under Policy CTY 8 and it 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. For the purposes of CTY 8 the definition of a substantial and continuously built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

It can be seen from the aerial photo, the dwelling at number 4 Rogully Road is set back behind a roadside agricultural field and therefore does not have a frontage to the road. It is clear there is ranch style timber fence to the front of the garden at number 4 which separates the garden from the field in front which is at the roadside. This is also the case with the business premises at number 4b Rogully Road, which is a lawful development following a certificate of lawfulness issued under LA09/2022/0009/LDE. To the fore of number 4b is a mature hedge which separates that property from the roadside field and I therefore do not consider this has a frontage to the roadside. As I do not consider that numbers 4 and 4b have a frontage to the road I do not consider this site to be within a substantial and continuously built up frontage as set put in the policy. Turning to a small gap site sufficient only to accommodate up to a maximum of two dwellings, as the site is not within a substantial and continuously built up frontage the application site does not comprise a small gap site in such a frontage. As I do not consider there is substantial and continuously built up frontage it is therefore not possible for the application site to respect the existing development pattern along the frontage.

Given I do not consider there is a small gap site in a substantial and continuously built up frontage the application does not meet the requirement of the exception allowed for in Policy CTY 8. If the application is approved it will extend a ribbon of development as new dwellings will have a common frontage and a visual linkage with the other dwellings and business premises along this stretch of the Rogully Road. I recommend a refusal of this application based on the reasons below.

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

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

**Reason 2**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Rogully Road as the site is not within a substantial and continuously built up frontage.

**Reason 3**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the buildings would, if permitted, add to a ribbon of development and would not respect the traditional pattern of settlement exhibited in that area and thereby will result in a suburban style build-up of development when viewed with existing and approved building resulting in a detrimental change to further erode the rural character of the countryside.

**Signature(s):**Karen Doyle**Date:** 13 December 2022





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0599/O	<b>Target Date:</b>
<b>Proposal:</b> Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping	<b>Location:</b> Adjacent and to the N.W. of 6 Rogully Road Loup Moneymore
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Ashling Mc Nicholl 1 Rogully Road Loup Moneymore	<b>Agent Name and Address:</b> Manor Architects Stable Buildings 30A High Street Moneymore BT45 7PD
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 0.45km south east of the development limits of The Loup, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore in which the red line covers a roadside agricultural field that is bounded by mature vegetation on all boundaries. The predominant land use is of an agricultural nature, with single dwellings and associated outbuildings also visible in local area.

**Representations**

Three neighbour notification were sent out however no representations were received.

**Description of Proposal**

This is an outline application for the provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping, the site is located adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore.

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

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 8 - Ribbon Development

CTY 13 - Integration and Design of Buildings in the Countryside; and

CTY14 - Rural Character

PPS 3 - Access, Movement and Parking;

The application is for a dwelling to be considered under CTY 8. The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 - Sustainable Development in the countryside.

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

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.

With regards to the continuous and built up frontage, I note that immediately east of the site sits two detached dwellings Nos. 06 and 08 Rogully Road both sharing a common

frontage onto the public road. I note that the character of the area is sporadic dwellings on the road side with farm groups established up the laneway. To the west immediately sits a detached shed with further detached dwellings further west, however this detached shed has no planning permission which has been raised to enforcement. Despite this, I would still contend that the shed does not share a common frontage as it is set back with an intervening agricultural field between the shed and road but as such it cannot be counted as part of the continuous and built up frontage. Therefore I contend that the gap is between No. 6 and 4a Rogully Road, with this in mind I am content that this would be able to constitute as a continuous and built up frontage. In terms of the gap, whilst I note that this application has applied for two dwellings in line with what the policy allows, I hold the opinion that the gap between Nos. 04a and 06 Rogully Road would be able to accommodate more than two modest sized dwellings. I hold the view that this would be contrary to CTY 8 as this is seen as an important gap any permission would lead to a build up of dwellings and create a ribbon of development along the Rogully Road.

I note that the agent provided additional information to trying to demonstrate how the site complies under CTY 8 referring to similar applications approved within the district. Upon review of the additional information I hold the view that none of the applications share similarities with this application and nothing submitted was sufficient in changing my view that this application fails under CTY 8.

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 hold the opinion that an appropriately designed dwelling with a ridge height no more than 7.5m with adequate landscaping, existing and proposed, would not conflict with this policy in relation to integration.

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. I note that the character of the area is currently characterised by individual dwellings set by the roadside or buildings set up back of the road on laneways with important gaps providing visual breaks. In this instance a dwelling would lead to the loss of an important visual break and change the rural character as a result of a build up of dwellings, in addition to creating and leading to ribboning.

#### Other policy and material considerations

##### PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, in their response requested amended plans showing the 2.4 x 70 metre sightlines and the red outline extended to demonstrate deliverability of sightlines. As such these were subsequently submitted, in which DFI Roads confirmed that they were content subject to conditions, showing compliance under PPS 3.

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.  I have no flooding or residential amenity concerns.
<b>Neighbour Notification Checked</b> <div style="text-align: right;"><b>Yes</b></div>
<b>Summary of Recommendation:</b>  Refusal
<b>Reasons for Refusal:</b>  1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the gap is able to accommodate more than two dwellings permitted under this policy and would create a ribbon of development along the Rogully Road.  3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would create a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.
<b>Signature(s)</b>  <b>Date:</b>

ANNEX	
<b>Date Valid</b>	14th April 2021
<b>Date First Advertised</b>	27th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 4a Rogully Road Moneymore The Owner/Occupier, 4b Rogully Road,Moneymore,Londonderry,BT45 7TR The Owner/Occupier, 6 Rogully Road Moneymore Londonderry	
<b>Date of Last Neighbour Notification</b>	6th May 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0599/O Proposal: Provision of 2 infill detached dwellings with associated detached garages, shared access onto Rogully Road and landscaping Address: Adjacent and to the N.W. of 6 Rogully Road, Loup, Moneymore, Decision: Decision Date:  Ref ID: I/1977/0361 Proposal: 11 KV O/H LINE Address: BALLYROGULLY, LOUP Decision: Decision Date:	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No. 02/1  
Type: Site Layout or Block Plan  
Status: Submitted

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0719/F	<b>Target Date:</b> 5 July 2021
<b>Proposal:</b> Proposed farm dwelling and garage	<b>Location:</b> Approx 25M East Of 25 Creagh Hill Road Toomebridge
<b>Applicant Name and Address:</b> Mr Brendan Mulholland 107 Deerpark Road Toomebridge	<b>Agent name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  To Committee - Refusal - Contrary to CTY 1, 8, 10, 13 and 14 of PPS 21.	
<b>Summary of Consultee Responses:</b>  	
<b>Characteristics of the Site and Area</b>  The site is located approximately 1.1km north of the development limits of Creagh, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. The site is identified as Approx. 25m East of 25 Creagh Hill Road Toomebridge, in which the red line covers a small roadside portion of a much larger agricultural field accessed via an existing access. The immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.	
<b>Description of Proposal</b>  This is a full application for a farm dwelling and garage, the site is located at Approx. 25m East of 25 Creagh Hill Road Toomebridge.	



**Deferred Consideration:**

This application was presented before the Planning Committee with a recommendation to refuse in February 2022. Members agreed to defer the application for a meeting with the Service Director following which I carried out an inspection of the site.

From an inspection of the site I do consider there to be a focal point with which this site is associated. The premises of SDC and Annahorish Primary School are to the south of the application site but are too far removed to be considered as a focal point for association with the application site. I do not consider any merit in pursuing a dwelling in a cluster at this location.

Planning permission was granted for a farm dwelling and was transferred off the farm holding in October 2012, and since the date of submission of this application the 10 year period has now expired and an application for a farm dwelling can be considered. The application meets criteria (a) and (b) of CTY 10.

Having carried out a site visit I do not consider the application satisfies criteria (c) of CTY 10. From the site visit it is apparent the site is too far removed to either be visually linked or sited to cluster with the group of buildings on the farm and therefore fails to meet criteria (c).

Should a dwelling on this site be considered under CTY 10 it must also meet the requirements of CTY 13 (a-f), CTY 14 and CTY 16 of PPS 21.

Referring to CTY 13 it is my opinion the site is an open site, which lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the proposed dwelling to integrate into the landscape. The proposed dwelling will rely primarily on the use of new landscaping for integration which is contrary to CTY 13.

Policy CTY 14 permits a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. From my site visit it is clear that a new dwelling at this location will add to a ribbon of development which will further erode the rural character of this area.

As such the proposed dwelling must also be considered in the context of Policy CTY 8 which states that planning permission will be refused for a building which adds to a ribbon of development. This application site is not a gap site for the purposes of CTY 8. There is currently a line of 3 road frontage dwellings to the immediate west of the application site and this application will extend that line of ribbon development and is therefore contrary to Policy CTY 8.

Having considered all the relevant policies, it is my opinion that planning permission should be refused for this application based on the reasons cited below.

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable



Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.

**Reason 2**

The proposal is contrary to 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.

**Reason 3**

The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries, is unable to provide a suitable degree of enclosure for the building to integrate into the landscape, the proposed building relies primarily on the use of new landscaping for integration and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

**Reason 4**

The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Reason 5**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the addition of ribbon development along Creagh Hill Road.

**Signature(s):**Karen Doyle

**Date:** 23 January 2023





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0719/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm dwelling and garage	<b>Location:</b> Approx 25m East of 25 Creagh Hill Road Toomebridge
<b>Referral Route:</b>  To Committee – Refusal - Contrary to CTY 1, 8, 10, 13 and 14 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Brendan Mulholland 107 Deerpark Road Toomebridge	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

To Committee - Refusal

### Characteristics of the Site and Area

The site is located approximately 1.1km north of the development limits of Creagh, in which the site is located within the open countryside as per the Magherafelt Area Plan 2015. I note that the site is identified as Approx. 25m East of 25 Creagh Hill Road Toomebridge, in which the red line covers a small roadside portion of a much larger agricultural field accessed via an existing access. I note that the immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

**Representations**

Five neighbour notifications were sent out however no representations were received in connection with this application.

**Relevant Planning History**

H/2009/0093/O - Site of dwelling on a farm (and garage) - 25m North of 105 Deerpark Road, Toomebridge - Permission Granted 09.04.2009

H/2009/0424/F - Dwelling on a farm with attached garage (1 storey) - 25m North of 105 Deerpark Road, Toomebridge - Permission Granted 15.10.2009

**Description of Proposal**

This is a full application for a farm dwelling and garage, the site is located at Approx. 25m East of 25 Creagh Hill Road Toomebridge.

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

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan 2015

PPS 1 - General Principles

PPS 3 - Access, Movement and Parking

PPS 21 - Sustainable Development in the Countryside

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

CTY 1 - Development in the Countryside

CTY 10 - Dwellings on the Farm

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development area acceptable in the countryside. In this instance the application is for a dwelling the farm and as a result the development must be considered under CTY 10 of PPS 21.

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

(a) the farm business is currently active and has been established for at least 6 years;  
 (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. This provision will only apply from 25 November 2008; and

(c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane.

Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-

- demonstrable health and safety reasons; or
- verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated in 1992. Went on to confirm that the farm business has made claims in each of the previous six years. From such I am content that the farm business is currently active and established as per required by policy.

With respect to (b), upon review of the farm business and after reasonable checks were completed I note that two approvals were attained under the farm business number - H/2009/0093/O and H/2009/0424/F. However after further checks these two permissions were permitted in 2009 beyond the ten years. Upon a land registry check however it was clear that this site H/2009/0424/F has been transferred in October 2012 as such it is within the last ten years. As there has been a transfer off the farm in the previous ten years as such it fails under this part of the policy.

With respect to (c), I note that the registered farm address of the business sits approximately 315m south of the site, with the farm buildings sitting approximately 230m south of the site. I note that there are four farm sheds identified I am content that these can constitute as an existing group of buildings on the farm. With this in mind I hold the opinion that the proposed site is too far to be able to visually link or cluster with this existing group. I hold the opinion that the applicant owns lands between the site and the existing group which would be able to successfully visually link and cluster with this group and any dwelling should be located within these lands. The policy states that where practicable to use an existing laneway for access, I note that the intention is use an existing laneway onto the public road. From such I hold the opinion that the application has failed this part of the policy.

As such the application does not comply under CTY 10. I note that other case has been put forward at this point. in that there is no replacement or conversion opportunity, nor does the site lie within a cluster associated with a focal point. I would argue that the site in this position would extend a ribbon of development along the Creagh Hill Road, as such the application would also fail under CTY 8. Finally there has been no personal and domestic circumstances provided nor any case for a dwelling for non-agricultural business.

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 there are a variety of housetypes in the close vicinity of the site as such given this I am content that the proposed dwelling is unlikely to appear as a prominent feature in the landscape. In addition, given the landform and surrounding

landscaping (existing and proposed) I am content that the dwelling and ancillary works would be able to successfully integrate into the landscape. In terms of design, I note that the design is quite simple and has become quite a common housetype seen in the countryside and from such I am content that this is acceptable within this location. However as mentioned previously I hold the opinion that the proposed dwelling in this location is unable to cluster nor visually link with the existing group of buildings on the farm, from such I hold the opinion that application fails under CTY 13.

CTY 14 states that planning permission will only be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. As mentioned previously I am content that a dwelling in this location will not be unduly prominent in landscape. Upon review of the site further I hold the opinion that if permitted the dwelling would further extend a ribbon of development along the Creagh Hill Road as such would damage rural character. From such the application has failed under CTY 14.

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.

#### PPS 3 - Access, Movement and Parking;

A consultation was sent to DFI Roads, confirmed that they had no objections to the application subject to the relevant conditions and informatives being added, as a result I am content that the access is acceptable under PPS 3.

A consultation was sent to Rivers Agency, who in their response confirmed that the Flood Hazard Map (NI) indicates that the development does not lie within the 1 in 100 year fluvial or 1 in 200 coastal flood plain. However confirmed that an undesignated culverted watercourse affects the site, the exact positioning is unknown and should be verified on site. Under 6.33 of the policy there is a general presumption against the erection of buildings or other structures over the line of a culverted watercourse in order to facilitate replacement, maintenance or other necessary operations. A suitable maintenance strip of minimum 5m must also be in place. DfI Rivers would recommend that the working strip is shown on a site layout drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. In addition by way of a planning informative, prospective purchasers whose property backs onto this watercourse should be made aware of their obligations to maintain the watercourse under Schedule 5 of the Drainage Order Northern Ireland 1973.

Rivers Agency went on to confirm that the development is located partially within a predicted flooded area as indicated on the Surface Water Flood Map. Although a Drainage Assessment is not required by the policy, it is the developer's responsibility to assess the flood risk and drainage impact and to mitigate the risk to the development

and any impacts beyond the site. If the proposal is to discharge into a watercourse then an application should be made to the local DfI Rivers office for consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973. Finally confirmed that FLD 4 and 5 do not apply.

I have no ecological or residential amenity concerns.

I recommend refusal given the failure under CTY 1 of PPS 21.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along the Creagh Hill Road.

3.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 other dwelling(s)/development opportunities have not been sold off from the farm holding within 10 years of the date of the application. Nor does the proposed new building visually linked or sited to cluster with an established group of buildings on the farm.

4.The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.

5.The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	10th May 2021
<b>Date First Advertised</b>	25th May 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 23 Creagh Hill, Toomebridge, Toome, Londonderry, BT41 3SR The Owner/Occupier, 24 Creagh Hill Toomebridge Toome The Owner/Occupier, 25 Creagh Hill Toomebridge Toome The Owner/Occupier, 26 Creagh Hill Toomebridge Toome The Owner/Occupier, 90 Deerpark Road Toomebridge Toome	
<b>Date of Last Neighbour Notification</b>	25th May 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0719/F Proposal: Proposed farm dwelling and garage Address: Approx 25m East of 25 Creagh Hill Road, Toomebridge, Decision: Decision Date:  Ref ID: H/2004/0889/O Proposal: Site of Dwelling and Garage. Address: 80m North of 25 Creagh Hill Road, Toomebridge. Decision: Decision Date: 24.10.2005  Ref ID: H/1983/0235 Proposal: HOUSE AND DETACHED STORE Address: CREAGH HILL, TOOMEBRIDGE Decision: Decision Date:	

**Summary of Consultee Responses****Drawing Numbers and Title**

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 05  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



### Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/0874/O	<b>Target Date:</b> 4 August 2021
<b>Proposal:</b> Dwelling and garage on a rounding off site in a cluster	<b>Location:</b> 30M N.E. Of 122 Creagh Road Anahorish Castledawson Magherafelt
<b>Applicant Name and Address:</b> Mr Malachy Gribbin 154A Creagh Road Castledawson Magherafelt BT45 8EY	<b>Agent name and Address:</b> No Agent
<b>Summary of Issues:</b>  An exception to CTY 2a	
<b>Summary of Consultee Responses:</b>  	
<b>Characteristics of the Site and Area</b>  The site is located approximately 1km north west of the development limits of Creagh and it is designated to be within the open countryside as per the Magherafelt Area Plan 2015. The red line covers a roadside agricultural field that is covered with a mix of trees and hedging throughout the site. The immediate area is defined by a mix of residential, commercial and agricultural with the wider being predominately agricultural.  Relevant planning history H/2002/0347/O - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson ' Permission Refused ' Appeal dismissed  H/1999/0453 - Site of Dwelling ' Adjacent to 122 Creagh Road, Castledawson ' Permission Refused - 25.05.2000	

2003/A233 - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson - Appeal dismissed - 30.03.2004

#### Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

#### Description of Proposal

This is an outline application for a dwelling and garage on a rounding off site in a cluster, the site is identified as 30m N.E. of 122 Creagh Road, Anahorish, Castledawson.

#### Deferred Consideration:

The application has been submitted as a dwelling in a cluster and is being considered in the context of Policy CTY2a of PPS 21. The cluster lies outside a farm, it consists of four or more buildings of which at least three are dwellings, it appears as a visual entity and is associated with the focal point of Gribben House. I also consider the development of this site can be absorbed into the existing cluster through a rounding off and it will not significantly alter its existing character or visually intrude into the open countryside on account of the dwellings to the south west of the application site. There will be no adverse impact on residential amenity.

However, although the site will provide a suitable degree of enclosure, the site is not bounded on at least two sides with other development in the cluster.

To the rear of the site, to the south west, the site is partly bounded by a private laneway serving a single dwelling and this same lane bounds the site to the south east. To the north/north east of the site is the Creagh Road and there is no development on the opposite side of the road. To the north west, the site is bounded by a different private laneway which serves a single dwelling. The only boundary with development is part of the south west boundary which is bounded by the garden of No 122. Therefore, the application site fails to satisfy this criteria, as laneways are not considered development for the purposes of this policy and this has been found by the Planning Appeals Commission in a number of other similar cases. Although planning permission has been granted for a dwelling in a cluster to the northwest of this site, this was approved in January 2023 and is not yet built and cannot be relied upon as development bounding the application site as it is presently an agricultural field.

Policy CTY 2a requires an application for a dwelling at an existing cluster to meet all of the six criteria listed in PPS 21. Given the application site is not bounded on at least two sides with other development in the cluster this application does not meet Policy CTY2a. However, it is my opinion that this application can be treated as an exception to policy since the application is considered to meet five of the six listed criteria and is therefore very much within the spirit of the policy. Although the site is not bounded on two sides there are two lanes, one to each side of the application site and a dwelling to the rear of the application site. On account of this, I do not consider a new dwelling will result in urban sprawl at this location and a dwelling on this site will provide a natural ending to the cluster of development associated with the focal point.

It is my recommendation to approve the planning application subject to the conditions listed below.



**Conditions/Reasons for Refusal:**

**Approval Conditions**

**Condition 1**

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

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

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

**Condition 2**

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

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

**Condition 3**

The 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.

**Condition 4**

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 the dwelling integrates into the landform.

**Condition 5**

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level and be designed in accordance with the design guide 'Building on Tradition - A Sustainable Design Guide for the Northern Ireland Countryside'

Reason: To ensure that the proposal is in keeping with the character of the area.

**Condition 6**

A detailed scheme of structured landscaping for the site including along all site boundaries, shall be submitted at Reserved Matters stage at the same time as the dwelling to include details

of species, numbers, sizes, siting and spacing of trees and hedge plants. The planting as approved shall be implemented in full during first available planting season after the occupation of the dwelling which is hereby approved.

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

**Condition 7**

The existing trees and natural vegetation around the site 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, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

**Condition 8**

C01 - A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

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

**Signature(s):**Karen Doyle


**Date:** 20 January 2023



### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0874/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage on a rounding off site in a cluster	<b>Location:</b> 30m N.E. of 122 Creagh Road Anahorish Castledawson Magherafelt
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 2a, 8 and 14 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Malachy Gribbin 154a Creagh Road Castledawson Magherafelt BT45 8EY	<b>Agent Name and Address:</b>
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	



Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
To Committee - Refusal - Contrary to CTY 1, 2a, 8 and 14 of PPS 21.		
<b>Characteristics of the Site and Area</b>		
<p>The site is located approximately 1km north west of the development limits of Creagh and it is designated to be within the open countryside as per the Magherafelt Area Plan 2015. The red line covers a roadside agricultural field that is covered with a mix of trees and hedging throughout the site. The immediate area is defined by a mix of residential, commercial and agricultural with the wider being predominately agricultural.</p> <p>Relevant planning history  H/2002/0347/O - Site of Dwelling &amp; Garage. - 70 Metres South East of 124 Creagh Road, Castledawson - Permission Refused - Appeal dismissed</p> <p>H/1999/0453 - Site of Dwelling - Adjacent to 122 Creagh Road, Castledawson ? Permission Refused - 25.05.2000</p>		



2003/A233 - Site of Dwelling & Garage. - 70 Metres South East of 124 Creagh Road, Castledawson - Appeal dismissed - 30.03.2004

#### Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

#### Description of Proposal

This is an outline application for a dwelling and garage on a rounding off site in a cluster, the site is identified as 30m N.E. of 122 Creagh Road, Anahorish, Castledawson.

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

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherafelt Area Plan 2015

Mid Ulster Local Development Plan 2030 - Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

With regards to the first criteria, I am content that the cluster lies outside a farm and consists of four or more buildings in that at least three of these are dwellings. Furthermore I am content that



the cluster appears as a visual entity wherein I am content that the old 'Gribbin House' factory building is able to provide a focal point for the cluster.

In terms of suitable degree of enclosure I am not content that the site is bounded on two sides with other development within the cluster. I note that No.122 sits north west of the site with no direct bounding with the site, only the laneway into No.122 runs along the northern boundary of the site but I would not be content that this is sufficient to categorised as bounding on one side. I note that No.120 sits to the west of the site with the laneway into the property running through the site and along the western boundary. After group discussions it has been concluded that the site unfortunately not bound on two sides with development with other development in the cluster. Furthermore as the site lies at the outer limit of the cluster I am content that it can be absorbed into the cluster as it would round the cluster off in the south eastern corner of the site. However upon review of the site I would contend that a dwelling in this location would actually extend a ribbon of development which would visually intrude into the open countryside. Finally, I am content that an appropriately designed dwelling would not have an adverse impact on neighbouring amenity.

I note that no other case has been put forward by the applicant, in that there is no replacement or conversion opportunity, no farm case provided, it has been argued that it fails the infill policy as extends the ribbon of development. Finally there has been no personal and domestic circumstances provided nor any case for a dwelling for non-agricultural business.

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 there are no exact design or siting details have been provided, however, I am content that an appropriately designed dwelling will not appear as visually prominent. I note that there is existing landscaping which should be retained where possible with additional landscaping added where necessary to aid integration. Therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 6.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that there is already a suburban style build-up of development feel to the area given the number of houses already in place and that any dwelling would become part of this. In addition, a dwelling in this location would lead to the extending of a ribbon of development along the Creagh Road. As such, I am of the opinion that this application is likely to cause detrimental change to the character of the area, failing under CTY 14.

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.

Other policy and material considerations

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.	
<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>	
Refusal	
<b>Reasons for Refusal:</b>	
<p>1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p> <p>2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and the dwelling would if permitted further erode the existing character of the cluster and visually intrude into the open countryside</p> <p>3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of a ribbon development along the Creagh Road.</p> <p>4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.</p>	
<b>Signature(s)</b>	
<b>Date:</b>	



<b>ANNEX</b>	
<b>Date Valid</b>	9th June 2021
<b>Date First Advertised</b>	22nd June 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 120 Creagh Road, Castledawson, Londonderry, BT45 8EY The Owner/Occupier, 121 Creagh Road Castledawson Londonderry The Owner/Occupier, 122 Creagh Road Castledawson Londonderry The Owner/Occupier, 123 Creagh Road Castledawson Londonderry	
<b>Date of Last Neighbour Notification</b>	9th July 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/0874/O Proposal: Dwelling and garage on a rounding off site in a cluster Address: 30m N.E. of 122 Creagh Road, Anahorish, Castledawson, Magherafelt, Decision: Decision Date:  Ref ID: H/1999/0453 Proposal: SITE OF DWELLING Address: ADJACENT TO 122 CREAGH ROAD CASTLEDAWSON Decision: Decision Date: 25.05.2000  Ref ID: H/2002/0347/O Proposal: Site of Dwelling & Garage. Address: 70 Metres South East of 124 Creagh Road, Castledawson Decision: Decision Date:  Ref ID: H/1988/0320 Proposal: ALTERATIONS AND ADDITIONS BUNGALOW Address: 122 CREAGH ROAD CASTLEDAWSON Decision:	

Decision Date:

Ref ID: H/1999/0153

Proposal: SITE OF DWELLING AND GARAGE

Address: 250M SOUTH OF 122 CREAGH ROAD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1998/0618

Proposal: DWELLING

Address: TO REAR OF 122 CREAGH ROAD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/1998/0211

Proposal: SITE OF DWELLING AND GARAGE

Address: REAR OF 122 CREAGH ROAD CASTLEDAWSON

Decision:

Decision Date:

Ref ID: H/2014/0435/F

Proposal: New 33kv 3x200mm AAC system reinforcement between Creagh Sub Station and Tobermore. Overhead line will consist of single wood pole structures and double wood pole structures (H Poles)

Address: From: 122 Creagh Road Castledawson (VIA) Creagh Annaghmore Killyneese Aghagaskin Glenmaquill Grange Dromore Drumsamney Moyasset To 42 Desertmartin Road Tobermore,

Decision: PG

Decision Date: 15.12.2016

#### 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	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/1182/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description)	<b>Location:</b> Approx 70m N.E. of 70 Drumgrannon Road Dungannon
<b>Applicant Name and Address:</b> George Troughton 76 Drumgrannon Road Broughadowey Dungannon	<b>Agent name and Address:</b> 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
<b>Summary of Issues:</b> The building was constructed and used as a shop and caused intensification of use of a sub standard access to a public road. The applicant has amended the proposal; to retain the building for ancillary uses associated with the farm.	
<b>Summary of Consultee Responses:</b> DFI Roads – refusal recommended, substandard access onto a protected route DFI Rivers – Drainage Assessment required if the proposal exceeds 1000sqm NI Water – recommend to approve EHO – no comment to make DAERA – farm business is currently active and established for over 6 years	
<b>Characteristics of the Site and Area:</b> This application is on Grange Farm and is located 70m NE of No 70 Drumgrannon Road, approx. 1 kilometre north west of the village of The Moy. Access is from an existing private lane off the A29 Protected Route. It is in the rural area outside of any defined settlement limits.  The application site is set back over 300metres from the public road on lands that are rising to the	

west, with existing agricultural sheds and chicken houses behind them to the west.

### **Description of Proposal**

This application is for retention of agricultural building for uses ancillary to the farm, including offices, storage spaces and area for sale of goods produced on the farm. (amended description) building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

### **Deferred Consideration:**

Members will be aware of this application which was before the Committee on 7 December 2021 and 6th September 2022 where it was deferred to allow the applicants to revisit the scheme and consider the use on the site. Members will also be aware an enforcement notice has been issued in respect of the unauthorised retailing operations from the site, this notice comes into effect on 1 February 2023 unless there is an appeal lodged against it.

Originally this proposal was for the retention of the buildings as a farm and factory shop, with a footprint of 104sqm (external) and gross internal floorspace of 93sqm. Amended details have been submitted, it is now proposed to retain the building for ancillary office, store and sale of good produced on the farm. The proposal now shows area for the display of farm produce produced on the farm as approx. 57sqm, storage use is 9sqm, office use is 11sqm and the counter area is 12sqm.

Following the submission of the revised details 1 further letter of objection was received which highlights the very real issues that are experienced by road users and those accessing this laneway. The objection sets out that lives have been lost at these bends and that accidents have occurred here. Members should be very much aware of these concerns in making any decision about this proposal and whether or not there is intensification of the use of the access from the current proposal and to what extent the Council has control over this.

In taking account of this Members are advised Section 23 of the Planning Act (NI) 2011 sets out the meaning of development and Section 24 states that planning permission is required for the carrying out of any development of land.

Section 23 (3) states '*The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land—*

....

*(d) the use of any land for the purposes of agriculture or forestry and the use for any of those purposes of any building occupied together with land so used;*

...'

Section 24 (3) states '*Where by a development order planning permission to develop land has been granted subject to limitations, planning permission is not required for the use of that land which (apart from its use in accordance with that permission) is its normal use.*

The Planning Act sets out that using land and buildings for agricultural purposes does not require planning permission as it is not considered to be development. Where new



buildings are proposed these are granted planning permission if they meet the limitations in a development order. Members will be more familiar with this as the Planning (General Permitted Development) Order (NI) 2015, as amend (GPDO). The provision of this building could be assessed against the criteria in Part 7 of the Schedule to the GPDO it permits *'the carrying out on agricultural land comprised in an agricultural unit of—*  
(a) *works for the erection, extension or alteration of a building; or*  
(b) *any excavation or engineering operation;*  
*reasonably necessary for the purposes of agriculture within that unit.'*

I do not consider the exclusion contained in Article 3(5) of the GPDO would prevent this building as the building itself does not require the alteration to an access to the public road or impact on an existing access and the legislation cannot, in my opinion, require this to be done.

There is a mechanism for the assessment of the development against the legislation through submission of a Certificate of Lawful Use or Development (CLUD). A CLUD is limited in what can be considered and in this case here may be issues with the retail element of the scheme. The retail element is proposed as only for goods produced on the farm, which could, in my opinion be an ancillary use to the overall farming activities here. It is useful to take account of Article 3 (3) of the Planning (Use Classes) Order (NI) 2015 (UCO) which states *' A use which is included in and ordinarily incidental to any use in a Class specified in the Schedule is not excluded from the use to which it is incidental merely because it is specified in the Schedule as a separate use.'* While there is no reference to agricultural activity in the UCO it is helpful to establish that some development may be ancillary to the primary use and as such does not require an express and separate consent.

Members have been asked to assess this proposal and I consider the relevant planning policy, for this proposal is contained in Policy CTY12 of PPS21. It sets out 5 criteria that all development must meet and an 3 additional criteria where it relates to new buildings. In this case, it was clear from the previous reports that visually the building is not offensive, it is small in scale, respects the character of the existing buildings and clusters with the much larger agricultural buildings to the rear of it. (see below)



The building is not readily visible from public vantage points in the local area and it is well screened from the main road by the existing vegetation to the east. The building is not located beside or close to any recognised natural or built heritage features and the closest residential property, No 70 to the south, is associated with the farm. As such I do not consider the proposal will adversely affect residential amenity or natural or built heritage

features.

There is a requirement to consider if the proposal is necessary for the efficient use of the holding. In consideration of this members may take account of the following~:

- **location**, this building is at the entrance to the Grange Farm complex of buildings and is sited immediately beside them. It is not unusual to have the office unit at the entrance to the complex where anyone visiting the facility is aware of where to report to as the first point of contact and for the facility to monitor visitors from a bio security perspective
- **other buildings on the site**, at the members site visit the applicants showed members around the other buildings and it was clear these are used for a variety of purposes associated with the existing business here. There are large poultry units where chickens are kept, animal houses where beef cattle are kept, large cold storage facilities, dry storage areas, a production line for preparing vegetables as well as an area for finishing off butchery. At the visit these buildings all appeared to be used to capacity.

In light of the above, I conclude that members could reasonably consider the proposed building does meet with the requirements of CTY12. That said it is important, in the light of the objections and the sub standard access to this complex, that any retail element of the proposal remains ancillary to the overall agricultural use on the site. It has been shown, as referred to in the previous reports, there was some level of retail activity on the site before the new building was erected. By limiting the area for retailing and the produce that can be sold, I consider this will ensure the level of activity will be in line with what was already established on the site and what could be deemed as ancillary to the primary use on the site. The application has been amended and has indicated that only goods produced on the farm may be sold from here. I consider it is necessary to attach a condition to set out clearly what that means.

I propose the members consider the following conditions to be attached to any permission: 'Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.

Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.

The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or identified within the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.

Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.

In my opinion, given the previous uses on the site and the revised proposal, this application does meet with CTY12 and with the suggested conditions attached the use of the access will be reduced as the premises will no longer operate as a general convenience store.

**Conditions:**

1. Within 2 weeks of the date of this decision the building shall be altered internally in accordance with the details shown on drawing No 01 Rev 1 received 8 DEC 2022.  
Reason: To prevent an unauthorised retailing use occurring on the site.
2. Only the area identified in blue on the proposed ground floor plan 1/50 shown on drawing No 01 Rev 1 received 8 DEC 2022 shall be used for the display of any goods and produce.  
Reason: To ensure retail remains ancillary to the primary agricultural activity on the site.
3. The goods and produce sold from this building shall only be those produced and packaged on Grange Farm and shall not include any produce that has been prepared, altered or packaged outside the farm as indicated in yellow on the farm boundary map date stamp received 16 AUG 2021 or outside the lands identified by the blue line on the location map shown on drawing no 01 Rev 1 received 8 DEC 2022.  
Reason: To ensure retail remains ancillary to the primary agricultural activity on the 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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/1182/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retention of farm and factory shop and associated works.	<b>Location:</b> Approx 70m N.E. of 70 Drumgrannon Road Dungannon
<b>Applicant Name and Address:</b> George Troughton 76 Drumgrannon Road Broughadowey Dungannon	<b>Agent name and Address:</b> 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
<b>Summary of Issues:</b> The acceptability of and the level of retail activity on this site in the countryside The intensification of use of a substandard access onto a protected route Objection received in relation to the dangerous access	
<b>Summary of Consultee Responses:</b> DFI Roads – refusal recommended, substandard access onto a protected route DFI Rivers – Drainage Assessment required if the proposal exceeds 1000sqm NI Water – recommend to approve EHO – no comment to make DAERA – farm business is currently active and established for over 6 years	
<b>Characteristics of the Site and Area:</b> This application is on Grange Farm and is located 70m NE of No 70 Drumgrannon Road, approx. 1 kilometre north west of the village of The Moy. Access is from an existing private lane off the A29 Protected Route. It is in the rural area outside of any defined settlement limits.  The application site is set back over 300metres from the public road on lands that are rising to the west, with existing agricultural sheds and chicken houses behind them to the west.	

**Description of Proposal**

This application is for the retention of a building for retail purposes and associated works. The building has dark metal walls and roof with an overhang to the front, it measures 9.2m wide, 16m long and 4m in height. The associated works, as on the site and on the submitted drawings appear to be a car parking area, turning area and new lane off the existing to provide access to the development and other buildings at the rear.

**Deferred Consideration:**

This application was before the Planning Committee on 7 December 2021 where, following discussions and presentations on behalf of the objectors and the applicant, it was deferred for meetings with the Planning Manager, the applicant, the objectors and a member's site visit.

At the deferral meeting with the objector, it was identified that is no issue with the appearance or location of the building, the issue of concern relates to the use and access that is being used. The objectors reiterated concerns in relation to the unsafe access, how they frequently have to wait on the main road for the access to their property to clear and they have been involved in accidents while waiting on the road. They advised they had counted 189 vehicles using the access on 11 December, the day after the planning committee. Additionally they advised a new neighbour has been involved in 37 incidents since moving in.

At the deferral meeting with the applicants it was accepted there is no issues with the appearance or location of the building, concerns relate to the use of the building and the access that is being used. The applicants accept this site is accessed off a protected route and while it may meet the consequential amendment to AMP3 in PPS21 because the access is off an existing lane, the access must be improved in accordance with AMP2 of PPS3. All accept this access is not up to the required standard, it is located on bad corners which limits sight lines, the access is not wide enough to allow 2 vehicles to pass and results in vehicles having to queue on the public road. The concept of the farm shop, what produce can be sold and the activity that is associated with it was further discussed as well as the historic uses on the site. Additional information about a farm shop decision in Lisburn and Castlereagh Area was submitted for consideration.

Members attended a site visit on 14 January 2022 to see the access, the buildings and the wider facility here. Officers from DFI Roads were also in attendance and highlighted the issues with the existing access and what that is required to meet the necessary standard:

- Widen the access to allow 2 way traffic and widen the bell mouth at the junction to allow for larger vehicles entering the lane
- Improve the sight lines to 4.5m x 124m to the northwest and provide a 124m forward sight line from this direction, this requires additional lands, including the garden and parking areas of properties on the opposite side of the road
- Improve the sight lines to 4.5m x 147m to the southeast and 147m forward sight line, this would require additional 3<sup>rd</sup> party lands to provide this.

Following the meetings additional information was provided for consideration, this included:

Email on 17 January 2022

- Auto tracking details showing vehicles using the access
- Cash sales information entitled JAN 2017 to DEC 2019 beginning 16/04/2018 and ending 30/12/2019 approx 1362 transactions totalling £152,498.56

- Details of EHO visits to the site 22 May 2008 (potato peeling area, warehouse), 18/11/09 wholesale business 11 DEC 2009 (water sample), 29 January 2020 (water sample)
- Invoice samples from old shop in yard (x4) 07/08/2019
- Food Business Establishment Approve – granted 14/03/11, dated 27/7/11 for coldstore activities. Beef, pork, lamb, duck, chicken, turkey and fish bought in from suppliers and supplied onto customers
- Invoices for cattle killing from Lakeview Farm Meats (x3) 25/06/2020, 30/07/2020, 08/10/2020
- Transport Assessment Form 105.1sqm floor space farm shop, 8 car parking spaces, recognises speed limit on road unsuitable for forward sight lines, traffic generated by proposal is cars, existing traffic primarily HGV
- P1C form for farm business
- Covering letter from agent advising the applicant will accept conditions restricting the hours of use of the shop and types of goods sold, accept the proposal is in a new building and has set out health and safety reasons, parking and servicing issues, protection of food prep areas, bio security and compliance with other statutory agencies as reason why cannot operate shop from existing buildings therefore have relocated to new building
- Letter from MRA setting out there are road safety issues with the bends here, a collision history is not associated with the access, small increase in traffic using the site questioning the previous expansion of the farm being permitted, questioning the road speeds being used to calculate the sight lines, accepting the applicant cannot improve the access to the required standard but that DFI Roads can reduce the speed limit, offering to provide additional signage along the road to identify the dangers

Email on 19 January 2022 sets out the proposal is for relocation of the farm shop that has been in place for a number of decades, setting out precedent cases for farm shops and identifying the types of goods that could be sold from them as from local area (parish and Lisburn & Castlereagh Council). Attachments provided include :

- Sage printout from 31/03/2016 – 30/04/2018 showing 2579 transactions in that period (105 weeks, this equates to approx. 5 transactions per day if Sundays are not included)
- 7 random cash sales, (06/04/2016, 15/09/2016, 02/12/2016, 31/03/2017, 27/06/2017, 20/10/2017, 26/02/2018)
- Written ledgers - May 97 (76 transactions), Oct 2000 (76 transactions) Feb 04 (61 transactions)
- Images of where sales were carried out in existing building

This additional information has been advertised, neighbours notified, DFI Roads and DAERA have commented on the information.

Members will be aware this proposal is to retain a new building for retailing in the countryside, it is based on the proposal being for a farm shop and the applicant has advised there has been a retail element ongoing here for some time. The Strategic Planning Policy Statement for Northern Ireland sets out that retail in the countryside should be resisted and that farm shops may be a general exception to that policy (para 6.279). It further indicates these should be within existing buildings and not have any adverse impact on the vitality and viability of an existing centre. The SPPS and CTY11 of

PPS21 allow farm diversification proposal which may, in exceptional circumstances involve new buildings, but usually it should be within existing buildings on the holding. The applicant has advised this is a farm diversification proposal and has provided a farm business ID that DAERA have confirmed is currently active and has been established in excess of 6 years. They have provided information they wish to be considered to show there is an established use here. Members are advised the most appropriate way to do this is by the submission of a Certificate of Lawful Use or Development, however in this case it is unlikely to succeed as the area that was used for sales is no longer used for sales, the applicants have advised the use has been transferred to the new building. None of the information that has been provided would indicate there was anything other than infrequent sales and it was mainly wholesale from the site. The names on the ledgers would suggest local businesses came to the site to buy directly from here, there is nothing to suggest this was frequently used by the general public. On the basis of the information that has been provided I do not consider there has been an established retail use carried on from the site. The information that has been presented shows there was incidental sales from the premises, ancillary to the main farm business on the site. This may not have necessarily required planning permission. That said, while there may not have been an established retail use, there is an allowance for a farm shop under farm diversification policies. It is clear the shop is run in conjunction with the farm and other established uses on the site. From the site visit it was apparent there is produce sold here which is from the farm business however it is also acting as a mini market and general convenience goods retailing, which sits outside what could reasonably be classed as farm produce. The applicants have been afforded the opportunity to reduce the range of goods within the shop, to the range that was previously offered from the farm and this has not been done. It is possible that planning permission could be granted with restrictive conditions to permit the shop to operate as a farm shop, however, given the current and on-going scale of retailing this is unlikely to cease or reduce the use. The SPPS and Farm Diversification policies do suggest a new building may be permitted, the applicant has put forward their reasons for this, which would tend to be in accordance with the exceptions set out in CTY11. The building is sited to cluster with the other building so the farm and it is accepted there is no issue with its appearance, however this proposal for the retention of this shop is exceeding what would be reasonably taken to be a farm shop and as such there is no policy support for it and it should be refused.

Further to the current activities being unacceptable, this proposal is resulting in the intensification of the use of a substandard access onto a protected route and DFI Roads have advised the access requires the following improvements:

- access to be widened to accommodate 2 way traffic
- 4.5m x 124m sightline to northwest
- 124m forward sightline from the northwest
- tangential sightline to northwest
- 4.5m x 147m sightline to southeast
- 147m forward sightline from northeast

To provide these improvements will require 3<sup>rd</sup> party lands on both sides of the road. Members are aware that Policy AMP2 of PPS3 requires access improvements where the access use is being intensified. Intensification of the use of an access is set out in DCAN 15 as a more than 5% increase in the use of the access. This lane provides access to 3 dwellings as well as Grange Farm and other farm buildings and lands. In the consideration of the application for the expansion of Grange Farm for the provision of 3 additional poultry units (LA09/2015/0176/F), an Environmental Statement was submitted which indicated the

expansion of the farm would generate an additional 2.1 movements per day. The existing use from Grange Farm is indicated at 2.1 movements per day and the 3 dwellings would equate to approx. 10 movements per dwelling per day and so the total use of the access, before the shop as constructed was approx. 35 vehicle movements per day. The objector has indicated they counted 189 vehicles using the access in one day. There is no other information to refute this and taking account of the historic information provided in the previous application this equates to over 500% increase in the use of the access. It is clear this proposal has resulted in the intensification of the use of a substandard access. The applicants have indicated they are unable to improve the access to the required standard. DFI Roads have advised they are still opposed to the proposal as the access is dangerous.

I consider there is the potential to accept a farm shop here, however this shop is excessive to what is reasonable for a farm shop and the access requires improvement. As such I recommend this application is refused due to scale of the operations and the road safety concerns around the use of this substandard access onto this protected route.

**Reasons for Refusal:**

1. The Shop is acting as mini supermarket rather than for goods primarily produced on this farm shop and is therefore in conflict with the Strategic Planning Policy Statement for Northern Ireland: Town Centres and Retailing and PPS21; Sustainable Development in the Countryside Policy CTY1 in that insufficient justification for the development has been provided and CTY11 in that it has not been demonstrated this is run in conjunction with the farm business.
2. The proposal is contrary to Policy AMP2 of Planning Policy Statement 3 – Access, Movement and Parking, in that the proposal has resulted in the intensification of the use of a substandard access to the public road which cannot be brought up to the necessary visibility standards and as a result increases the danger to users of the access and the users of the adjacent protected route.

**Signature(s):**

**Date**





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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1182/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of farm and factory shop and associated works	<b>Location:</b> Approx 70m N.E. of 70 Drumgrannon Road Dungannon
<b>Referral Route:</b>  There are a number of objections to this proposal which is contrary to Policy CTY 1 and CTY 11 in PPS 21, along with AMP 2 in PPS 3.	
<b>Recommendation:</b> Refusal	
<b>Applicant Name and Address:</b> George Troughton 76 Drumgrannon Road Broughadowey Dungannon	<b>Agent Name and Address:</b> 2 Plan NI 47 Lough Fea Road Cookstown BT80 9QL
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	DFI Roads - Enniskillen Office	Refuse
Statutory	Rivers Agency	Advice
Statutory	NI Water - Strategic Applications	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received

### Representations:

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

Contrary to PPS 21 and PPS 3.

**Characteristics of the Site and Area**

This application site known as Grange Farm is located approximately 70 metres N.E. of No 70 Drumgrannon Road and is 1 kilometre to the North East of the Moy village. It gains access off the A29 Protected Route, which is the longest North – South route in the North of Ireland, starting in Portrush and culminating at the Border just outside of Silverbridge. The site is located in the rural countryside and is undefined in the Dungannon and South Tyrone Area Plan (DSTAP). The surrounding area is rural, characterised by farm holdings located off laneways with some individual dwellings and business located along the roadside also.

The site is set back over 300 metres and to the west of the main road, on land which is elevated at a higher level than the road. It is accessed via a private laneway which serves a number of dwellings. This is tarmaced and as it nears the farm grouping, a new section veers off to the north which appears to have been constructed recently. This new laneway leads to a tarmaced parking area to the south where the building subject of this application is located in the south western corner of the site.

There is also designated parking spaces which are set out at an angle to the laneway which defines the northern boundary of the site by a post and wire fence. The western boundary of the site is defined by a retaining wall, beyond which sits an agricultural building at a higher level. This building sits parallel to and just outside of the application site with a large colourful mural adorning a large expanse of its outer wall.



The shop building sits with the southern gable siding onto the original laneway which continues in a westerly direction. It sits at a level above the laneway with steps allowing pedestrian access from this end. It has an overhanging roof which provides a sheltered area to the front of the shop which also creates external floorspace for the displaying of a variety of larger bulky items such as firewood, big bags of potatoes, flowers.

The building has a ridge height of 3.6 metres from the 0.35 metre raised platform it sits on and a footprint of 105 sq. metres

Entrance to the shop is located on the eastern elevation via double glazed doors, where two small windows are positioned either side of. A side door is on the northern elevation which faces the car park, however this does not appear to be for access to the public.

The roof and walls of the shop are a grey coated steel cladding. Internally the retail floorspace occupies the entire footprint of the building. The finishes of plywood walls and exposed metal frames create an industrial interior design appearance.

### **Planning History**

LA09/2021/0021/CA - Alleged unauthorised building, farm factory shop and advertisement – ongoing.

A warning Letter was issued in May 2021 seeking the cessation of the unauthorised retail use, demolition/removal of the building and removal of associated advertisements.



LA09/2015/0176/F - Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers) – Approval 08.02.2016

M/2006/1151/F - 1no Steel Framed Poultry Shed - Approval 13.06.2006

M/2004/1950/F - 2 No steel framed poultry sheds - Approval 07.05.2005

M/2004/0410/F - 2 no steel framed poultry sheds - Approval 19.07.2004

### **Description of Proposal**

Retention of farm and factory shop and associated works on land approximately 70 metres North East of No 70 Drumgrannon 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 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 and the period for Counter Representations closed on 18th December 2020. The Council submitted the Draft Plan Strategy to the Department for Infrastructure (DfI) on 28<sup>th</sup> May 2021 for them to carry out an Independent Examination. In light of this, the Draft Plan Strategy currently does not yet carry any determining weight.

The Strategic Planning Policy Statement for Northern Ireland 'Planning for Sustainable Development (SPPS) published in September 2015 is material to all decisions on individual planning applications and appeals. The SPPS 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 retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The proposed net floorspace of the building to be retained as part of this application is significantly below the 1,000 sq. metres threshold for submitting a Retail Impact Assessment, as the SPPS requires. The SPPS advises that the policy provision of PPS 21: Sustainable Development in the Countryside are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and includes Farm Diversification. 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'.

As this application site is located in the rural countryside, outside of any designated settlement development limit identified in the DSTAP, the relevant policy context is provided by Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21). Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted.

Policy CTY 11 states that permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. It sets out a list of criteria whereby the development proposed demonstrates;

- a) The farm or forestry business is currently active and established

A Supporting Statement, farm maps along with floorplan and elevations of the building were submitted as part of this development proposal. No other information to verify that the farm business is currently active and established has been presented. Although the planning history surrounding the site would suggest the farm is currently active and established, this has not been demonstrated by the provision of a P1C form to consult DAERA as part of this submission.

- b) The character and scale are appropriate to its location

The building this application seeks to retain is sited to the front of a large grouping of agricultural buildings. It measures 6.6 metres wide, 15.9 metres long and is finished in materials which are not uncommon in the countryside. However, the large flamboyant colourful mural on the outer wall of the agricultural building adjacent to the site is out of keeping with this rural area, and its advertisement of Grange Farm is also unauthorised.



- c) It will not have an adverse impact on the natural or built heritage

I have no concerns regarding any implications this building may have on any heritage features, either built or natural.

- d) It will not result in a detrimental impact on the amenity of nearby residential dwellings, including potential problems arising from noise, smell and pollution.

Although the building to be retained does not itself generate any nuisances, its existing retail use does have a detrimental impact on neighbouring amenity. From the site visit is evident this shop is open to the public from the hours of 8 – 5 Monday to Friday and 8 – 4.40 on Saturday. The hours of operation combined with the nature of its retail use has resulted in an escalation in traffic on this laneway, thus impacting on the neighbour's amenity, as is discussed in more detail below.

The policy goes on to say that proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.

In exceptional circumstances, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they,

- Are essential for the maintenance of the existing farm enterprise
- Are clearly unsuitable for adaptation and reuse
- Cannot be adapted to meeting the requirements of other statutory agencies

Where a new building is justified, it should be satisfactorily integrated with an existing group of buildings.

Paragraph 5.48 of PPS 21 clearly states that where a new building is proposed, or in this instance seeks retrospective planning permission, the applicant will be required to provide sufficient information to satisfactorily demonstrate why existing buildings cannot be used.



2004





2007



2019

In the Supporting Statement the agent has indicated on a map where,

*“the sale of farm and factory goods at Grange Farm was historically carried out from a shed in the middle of the farmyard.”*

It is evident from the orthophotography that there has been much development on the land surrounding this application site. However it is has not been demonstrated how any of the existing building were “unsuitable” for the retail use in this application

The agent has stated the building to be retained was constructed in order to

- Minimise access from members of the public to the farm for health and safety reasons (potential contamination of food preparation areas),
- Improve traffic management between customers to the shop and HGV deliveries to and from the site.



It is worth noting there is no evidence of any authorised retail element associated with this identified building. Therefore, any retail use is unauthorised and therefore cannot claim to be lawfully established or be justifiable in a need to expand.

The agent claims,

*"The proposal for a farm and factory is clearly run in conjunction with the existing business, the applicant and his family are actively involved in both the shop and the farm business, with the shop, the farm and the factory all intertwined."*

I have a number of issues with this statement in that there is reference to a "factory" numerous times throughout the agent's statement and the term is also included within the proposal description also. There has been no information provided as to where this factory is located, what it makes, ownership etc. As there is no planning history for such a development within this application site or the associated farm in the applicant's ownership, question arise as to whether it is operating as without the benefit of planning permission.

The Oxford Dictionary defines a Farm Shop as,

*"a shop that sells food and other items **from** a farm directly to the public."*  
and a Factory Shop as,  
*"a shop in which goods, especially surplus stock, are sold directly by the **manufacturers** at a discount".*

I am not convinced the said building is a "farm shop". While conducting the site visit I was able to gain access to the shop and it was evident there are a range of products on sale, the majority of which are not derived from the associated farm. The range of products included flowers, potatoes, coffee to go, jars of condiments, jam, bakery products, crisps, drinks and a large freezer and chill cabinet section.

From the information obtained during the site visit and that available on the internet advertising the services and products Grange Farm provides, I am not of the opinion the use of the building on this application site would constitute either a farm shop nor a factory shop. My own assessment would suggest this unit has the functioning properties of a wholesale food supplier, providing a retail outlet open to the public and a delivery service to businesses.

The agent goes on to say,

*"There is a verifiable functional linkage between a large portion of the stock sold in the shop and that reared, produced and processed on site."*

As already stated, this information has not been provided as part of this retrospective application, which has been submitted on the back of an enforcement case open on the unauthorised development on site. It is also contrary to what was viewed during the site visit.

According to the social media account of Grange Farm describes itself as a "Specialist Food Shop" and food wholesaler advertising the sale of Christmas Hampers, Cheese

Boards, Fruit Baskets, beef, Indian prawns, duck and pork. It also operates a daily delivery service of all products and

*"Specialises in the supply of eggs, peeled potatoes and chips, meat products and fresh fruit and vegetables to Chinese and Irish takeaways, restaurants and delis."*

This confirms my scepticism about the proposal description of this shop as a "farm and factory shop". It seems this is a retail outlet for some small homemade produce along with the usual items available in the average convenience store and products sourced in from other manufacturers.

Thereby I feel the correct policy to determine this application is the SPPS where in Town Centre and Retailing Paragraph 6.279

It may also be worth noting that although the Draft Plan currently does not have any weight, Policy RE 6 – Retail and Related Uses in the Countryside does say that in the countryside, new retail proposals for a farm shop..... will normally be restricted to a net floor area of 100 sq. metres.

### **Consultations and Representations**

NI Water have no objection subject to standard conditions.

The Environmental Health Department of Mid Ulster District Council were consulted and have no concerns.

DfI Rivers have no objections

DfI Roads were consulted and recommended refusal having taken into consideration representations from local councillors and neighbours as well as Accident History from their database. The database shows 1 fatal accident in March 2019, 4 other injury accidents 2018-10, as well as a recent accident they are aware of which has not been uploaded to their database.

The A29 Drumgrannon Road is a Protected Route and Para 5.28 of PPS 3 – Access, Movement and Parking states that in all cases, where access to a Protected Route is acceptable in principle, it will also be required to be safe in accordance with AMP 2. Policy AMP 2 states that permission will only be granted for a development proposal involving direct access, or intensification of the use of an access, onto a public road where;

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic, and
- b) the proposal does not conflict with Policy AMP 3 – Access to Protected Routes.

DfI Roads have concerns as this access is substandard and does not meet the required standards as set out in DCAN 15 and there are a number of issues which need to be overcome in order to bring the access up to standard and improve the safety of this access;

- The access must accommodate two way traffic and as delivery vehicles are expected to utilise this access, Auto Tracking will be required to determine the width and the radii requirements of the access.
- A Transport Assessment Form must be completed.
- A Forward sightline of 147 metres from the south east and 124 metres from the northwest is required.
- 4.5 metres by 124 metres sightline to the northwest is required, with the tangential sight line requiring partial removal of a third party hedge.
- 4.5 metres by 147 metres sightline to the southeast is required.

In order to provide these requirements, third party land is needed and be included within the red line of the site.

The potential impact of this proposal on Special Areas of Conservation, Special Protection Areas 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). This proposal would not be likely to have a significant effect on the features, conservation objectives or status of any of these sites.

There were three neighbouring properties notified about this application and it was advertised in the local media.

There are 2 separate objections received from 2 Councillors with both highlighting road safety as a huge concern, particularly because of the intensification of the access.

There are also a number of objections from the neighbouring property at No 82 Drumgrannon Road which note;

- The applicant only has a Right of Way through their property and has encroached it in an attempt to make improvements to the access lane.
- The shop sell products which are not produced on the farm.
- It has resulted in an intensification of the access due to the various amount of traffic movements to and from the shop; delivery of supplies to the shop, employee and customer traffic, wholesale delivery service to businesses, along with the daily everyday traffic generated on a working farm.
- The access is very dangerous as there is no right turning lane and the increased traffic to the shop, particularly when travelling from Dungannon direction have to wait in the road to turn into the farm and as this is just around the corner of a bend, the risk of accident on this dangerous stretch of road is exacerbated.
- Frequently they are hemmed in or cannot gain entry to their property due to their entrance being utilised as a layby, where vehicles wait for oncoming traffic from the shop.
- Lorries and vans make frequent trips to and from the shop outside of normal working hours, resulting in noise and light nuisance causing sleep disturbance.

**Neighbour Notification Checked**

**Yes**

#### **Summary of Recommendation:**

As there are a number of objections to this proposal and it is deemed contrary to policy, it cannot be determined under the Council's present Scheme of Delegation and must go to the Planning Committee for a decision.

This proposal to retain what is described as a “farm and factory shop” is misleading as it does not correctly describe the type of retailing on the site. It appears the building on site is a retail outlet with a floorspace in excess of 100 sq. metres which sells a wide variety of produce sourced from wholesalers while also providing a delivery service of the goods it sells to local businesses. This type of general convenience retailing goes against the SPPS as retailing is directed towards town centres. If this proposal were to be assessed under the correct use, it would be deemed contrary to SPPS which reiterates inappropriate retail facilities in the countryside must be resisted and this proposal is not considered to be an exceptional case.

I am of the opinion this application fails to comply with the criterial in CTY 1 and CTY 11 of PPS 21 as identified above. It also further jeopardises the safety of road users on what is already a notoriously well documented dangerous road. It fails to meet the criteria required by AMP 2 in PPS 3 and I would agree with DfI Roads this application should be refused.

**Reasons for Refusal:**

1. The proposal is contrary to Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) as retailing is directed to town centres, and the development of inappropriate retail facilities in the countryside must be resisted and this proposal is not an exception to policy.
2. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons as to why this development is essential in this rural location and could not be located within a settlement.
3. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm and the farm business is currently active and established. The development, will result in a detrimental impact on the amenity of nearby residential dwellings by reason of traffic generation, and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.
4. The proposal is contrary to Planning Policy Statement 3 access, Movement and Parking in that it would, if permitted, result in the intensification of use of an existing access) onto the A29 Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	16th August 2021
<b>Date First Advertised</b>	31st August 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 69 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 71 Drumgrannon Road Dungannon Tyrone The Owner/Occupier, 82 Drumgrannon Road Dungannon Tyrone Dominic Molloy - Email Marian Duffy - Email Barry Monteith - Email	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/1182/F Proposal: Retention of farm and factory shop and associated works Address: Approx 70m N.E. of 70 Drumgrannon Road, Dungannon, Decision: Decision Date:  Ref ID: M/1995/0776 Proposal: Dwelling Address: ADJACENT TO 82 DUNGANNON ROAD MOY Decision: Decision Date:  Ref ID: M/2009/0264/F Proposal: Replacement dwelling and garage Address: Land approx 460m West of 70 Drumgrannon Road, Dungannon Decision: Decision Date: 12.06.2009  Ref ID: M/2004/0410/F Proposal: 2 no steel framed poultry sheds Address: land 175m NW of 70 Drumgrannon Road, Dungannon Decision:	

Decision Date: 19.07.2004

Ref ID: M/2006/1151/F

Proposal: 1no Steel Framed Poultry Shed

Address: Land approx 175m NW of 70 Drumgrannon Road Dungannon

Decision:

Decision Date: 13.06.2006

Ref ID: M/2004/1950/F

Proposal: 2 No steel framed poultry sheds

Address: Land 175m North West of 70 Drumgrannon Road, Dungannon

Decision:

Decision Date: 07.05.2005

Ref ID: M/2005/0373/O

Proposal: Erection of new two storey dwelling and detached garage

Address: Site adjacent to 82 Moy Road and Drumgrannon Road, Moy, Dungannon

Decision:

Decision Date: 23.08.2005

Ref ID: M/2001/0753/F

Proposal: Change of House type from previously approved application Ref:M/95/0776.

Address: Adjacent to 82 Dungannon Road Moy Co Tyrone

Decision:

Decision Date: 15.11.2001

Ref ID: M/1975/0312

Proposal: ERECTION OF BUNGALOW

Address: CULLKEERAN, MOY ROAD, DUNGANNON

Decision:

Decision Date:

Ref ID: M/1994/6100

Proposal: Replacement Dwelling Dungannon Road Moy

Address: Dungannon Road Moy

Decision:

Decision Date:

Ref ID: M/1995/6076

Proposal: Dwelling 82 Drumgrannon Road Moy

Address: 82 Drumgrannon Road Moy

Decision:

Decision Date:

Ref ID: LA09/2015/0176/F

Proposal: Proposed 3 no additional broiler poultry sheds with 6 no feed bins, a biomass boiler shed with fuel bin and a storage shed (to contain in total 111,000 broilers - increasing total site capacity to 258,500 broilers)

Address: Land approx. 230m North of 70 Drumgrannon Road, Dungannon,

Decision: PG

Decision Date: 08.02.2016

<b>Summary of Consultee Responses</b>  <b>DRD Roads</b>  <b>Environmental Health</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 Type: Site Location Plan Status: Submitted  Drawing No. 02 Type: Road Access Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:







## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/1299/F	<b>Target Date:</b> 29 October 2021
<b>Proposal:</b> Proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan	<b>Location:</b> Site Adjacent To 41 Waterfoot Road Ballymaguigan Magherafelt
<b>Applicant Name and Address:</b> James Sheridan 41 Waterfoot Road Ballymaguigan Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  This is a full planning application for a proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt.	
<b>Deferred Consideration:</b>  This application was presented before Members in June 2022 with a recommendation to approve the application. However, the application was deferred by Members to allow the consideration of a late objection which was received prior to the Committee meeting.  The late objection was received from Eamon Close who owns the neighbouring property at No 43 to the rear of the application site. Mr Close has made a number of objections, all of which have been considered in the previous case officer report.  The objector claims the applicant has remove a tree from the middle of the lane on his site location plan, however I do not see any notes or annotations showing what is claimed by the	

objector. The access lane to the site is within the control of the applicant and he has signed Certificate A to reflect this. Previously the applicant included a laneway to the immediate west of his lands, and following a challenge by the objector the red line was amended and reduced to remove that laneway from the red line.

As well as the challenge to the land ownership the objector raised the following concerns that were addressed in the case officer report before Members in June 2022. Firstly the issue of overlooking has been addressed and there are no windows in the elevation overlooking the objectors property. Secondly, concerns over sewage and the initial proposal had included a septic tank and this has since changed to a proposed public connection and this matter does not need to be revisited.

Having previously addressed all the concerns at great length in the case officer report I am content the issues raised in the late objection to the application do not change the view taken on this application and an approval is recommended subject to the conditions listed below.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

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

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

##### **Condition 2**

C06 - The vehicular access, including visibility splays and any forward sight line shall be provided in accordance with the approved plans, prior to the commencement/occupation/operation of any works or other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

##### **Condition 3**

The existing mature vegetation on the eastern and southern boundaries of the site shall be permanently retained.

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

##### **Condition 4**

If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of occupation of the building for its permitted use, another tree or trees shall be planted at the

same place and those trees shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Signature(s):**Karen Doyle

**Date:**



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1299/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan	<b>Location:</b> Site adjacent to 41 Waterfoot Road Ballymaguigan Magherafelt
<b>Referral Route:</b>  Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> James Sheridan 41 Waterfoot Road Ballymaguigan Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

3 letters of objection have been received from the neighbour at No.43 Waterfoot Road. The concerns raised have all been considered as part of the assessment of this planning application. The points raised within the objections have been summarised below:

- Issues raised over lands contained within the red line.
- Issues regarding overlooking and privacy issues to No. 43
- Concerns over sewage and the initial proposal had included a septic tank. This has since changed to a proposed public connection.

I am content that all issues have been addressed throughout this application process. The red line was amended to include only lands contained within the applicants ownership. The initial proposal has changed and there will no issues with overlooking or loss of privacy. Any concerns regarding sewage the applicant will be aware that separate consent is required and this is not a planning issue.

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

The site is located within the settlement limits of Ballymaguigan as per the Magherafelt Area Plan 2015. The red line of the application site includes a single storey, detached dwelling which is set back slightly from the public road. The site also has two outbuildings located to the rear of the site. The site has a garden area to the front of the property with two access points at the roadside. The boundaries to the east and south of the site are defined by a mature hedgerow, which provides strong screening of the site. The surrounding area is a mix of residential dwellings and agricultural lands further beyond the site.

### **Description of Proposal**

This is a full planning application for a proposed semi-detached dwelling adjacent to 41 Waterfoot Road, Ballymaguigan, Magherafelt BT45 6LQ.

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

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 7: Quality Residential Environments  
PPS 3: Access, Movement and Parking

The site is located within the Settlement Limit of Ballymaguigan and has no other zonings or designations within the Plan. It is also located within an area identified as an Archaeological Site and Monument. Historic Environment Division (HED) were consulted and responded with no objection to the proposal.

The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Policy QD1 of PPS 7 states that planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. I am content that the proposal respects the surrounding context and is appropriate to the character of the site in terms of layout and scale. It has a slightly higher ridge height than the dwelling adjacent, but I am content it will not over dominate. There are no features of archaeological and built heritage or landscape features that will be affected by the development.

I am content that given the proposal is located within the existing curtilage of the dwelling at No 41 there is adequate private open space for both properties. The boundaries of the site are existing and mature and aid integration with the surrounding area. As this is a single dwelling within the settlement limits of Ballymaguigan the proposal can access existing neighbourhood facilities. There is adequate provision for parking within the curtilage of the site.

In terms of the design of the dwelling, there has been a number of alterations to the proposal with it not being a semi-detached dwelling. Concerns were raised regarding potential overlooking and loss of privacy with No.41 however, it was agreed on balance it was acceptable as this was the applicants home. The proposed dwelling has been designed so that there is only two windows and a utility room door located at the rear of the property which would look onto the rear of 41. From this, I am content there will be no issues with overlooking or loss of privacy. Initial plans included a window on the first floor which looked towards No43 and the objector raised concerns. This has since been removed and the design does not cause any issues with regards overlooking the property No.43. In terms of the design, the proposed dwelling adjoins the

existing dwelling but will face east. It was agreed at an internal group meeting that the proposed design of the dwelling was acceptable within the settlement limits of Ballymaquigan. I have no concerns relating to crime.

### PPS 3: Access, Movement and Parking

DfI Roads were consulted and offered no objection subject to a condition being attached to any approval.

### PPS 6: Planning, Archaeology and Built Heritage

Historic Environment were consulted as the site is located within an area identified as an archaeological site and monument. HED responded to confirm they assessed the application and is content that the proposal is satisfactory to SPSS and PPS 6 Archaeological policy requirements.

### **Other Material Considerations**

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

### **Neighbour Notification Checked**

**Yes/No**

### **Summary of Recommendation:**

Approval subject to 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. The vehicular access including visibility splays 2.4 x 60 metres and a 60 metre forward sight distance, shall be provided in accordance with Drawing No 02 Rev 03 bearing the date stamp 01 Apr 2022 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.

3. The existing mature vegetation on the eastern and southern boundaries of the site shall be permanently retained.

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

4. If any retained tree is removed, uprooted or destroyed or dies within 3 years from the date of occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

**Informative**

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
3. This 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.
4. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Planning Authority or other statutory authority.
5. Notwithstanding the terms and conditions of the Council's approval set out above, you are required under Articles 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the DfI Roads 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 Loughrey Campus, 49 Tullywiggan Road, Cookstown, BT80 8SG. A monetary deposit will be required to cover works on the public road.
6. It is the responsibility of the Developer to ensure that water does not flow from the site onto the public road (including verge or footway) and that existing road side drainage is preserved and does not allow water from the road to enter the site. This planning approval does not give authority to discharge any drainage into a DfI Roads drainage system.
7. Precautions shall be taken to prevent the deposit of mud and other debris on the adjacent road by vehicles travelling to and from the construction site. Any mud, refuse, etc. deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	3rd September 2021
<b>Date First Advertised</b>	21st September 2021
<b>Date Last Advertised</b>	3rd May 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 39a Waterfoot Road Magherafelt The Owner/Occupier, 41 Waterfoot Road Magherafelt Londonderry The Owner/Occupier, 43 Waterfoot Road Magherafelt Londonderry Eamon Close 43, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ Eamon Close 43, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ The Owner/Occupier, 44 Waterfoot Road Magherafelt Londonderry Eamon Close	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/1299/F Proposal: Proposed dwelling in a cluster Address: Site adjacent to 41 Waterfoot Road, Ballymaguigan , Magherafelt, Decision: Decision Date:  Ref ID: H/2000/0545/O Proposal: Site of 4 No Dwellings Address: Approx. 50 m north of 26 Moss Road, Ballymaguigan, Magherafelt Decision: Decision Date: 02.03.2001  Ref ID: H/2001/0238/O Proposal: Site of dwelling Address: Waterfoot Road, Ballymaguigan, Magherafelt Decision: Decision Date: 15.05.2001  Ref ID: H/2001/0449/O Proposal: Site Of Dwelling Address: 120m S of 43 Waterfoot Road, Ballymaguigan, Magherafelt	

Decision:  
Decision Date: 18.12.2001

Ref ID: H/1993/0592  
Proposal: SITE OF BUNGALOW AND GARAGE  
Address: R/O 43 WATERFOOT ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2001/0452/O  
Proposal: Site Of Dwelling  
Address: 80m S Of 43 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 18.12.2001

Ref ID: H/1998/0273  
Proposal: DWELLING AND GARAGE  
Address: ADJACENT TO 41 WATERFOOT ROAD MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2001/0451/O  
Proposal: Site Of Dwelling  
Address: 60m S of 43 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 18.12.2001

Ref ID: H/1997/0487  
Proposal: SITE OF DWELLING  
Address: ADJACENT TO 41 WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1988/0283  
Proposal: SITE OF DWELLING AND GARAGE  
Address: WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/1988/0567  
Proposal: BUNGALOW WITH GARAGE  
Address: WATERFOOT ROAD BALLYMAGUIGAN MAGHERAFELT  
Decision:  
Decision Date:

Ref ID: H/2006/0775/F  
Proposal: Erection of a dwelling and detached garage  
Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt  
Decision:  
Decision Date: 27.02.2007

Ref ID: H/2003/0699/O  
Proposal: Site of dwelling and garage.  
Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt.  
Decision:

Decision Date: 23.03.2004

Ref ID: H/1974/0419

Proposal: 11KV O/H LINES (C.3459A)

Address: BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2007/0239/F

Proposal: Erection of a dwelling and detached garage

Address: To rear of 43 Waterfoot Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 21.06.2007

Ref ID: H/1993/0244

Proposal: SITE OF DWELLING

Address: ADJ TO 41 WATERFOOT ROAD BALLYMAGUIGAN

Decision:

Decision Date:

Ref ID: H/1985/0207

Proposal: BUNAGLOW

Address: WATERFOOT ROAD, BALLYMAGUIGAN, MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0322%

Proposal: CHANGE OF USE FROM AGRICULTURAL FIELD TO TRAINING  
FIELD WITH BALL STOPS ALSO FLOODLIGHTING ON MAIN PITCH

Address: SHORE ROAD BALLYMAGUIGAN MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2005/0420/RM

Proposal: Dwelling & Garage

Address: Junction Of Waterfoot Road & Shore Road, Ballymaguigan, Magherafelt

Decision:

Decision Date: 21.07.2005

Ref ID: LA09/2017/1224/NMC

Proposal: Removal of Access from Site to Moss Road

Address: 85 Meters West of 16 Moss Road, Ballymaguigan, Magherafelt,

Decision: WITHDR

Decision Date: 26.09.2017

Ref ID: LA09/2017/1322/F

Proposal: To vary condition No.2 of application LA09/2017/0167/F

Address: 85m West of 16 Moss Road, Ballymaguigan,

Decision: WITHDR

Decision Date: 14.11.2017

Ref ID: LA09/2021/0988/F

Proposal: Proposed dwelling within existing development limits

Address: 16A Moss Road, Ballymaguigan,

Decision: PG

Decision Date: 25.08.2021

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

Drawing No. 02 REV 03  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 03 REV 03  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2021/1449/O	<b>Target Date:</b> 30 November 2021
<b>Proposal:</b> Proposed dwelling and garage within a cluster site	<b>Location:</b> 15M East Of 6 Tamnadeese Road Castledawson
<b>Applicant Name and Address:</b> Derek Fulton 91 Moneymore Road Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b>  This application was presented as a refusal at October Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 13 and CTY 14.	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  The applicant is seeking outline planning approval for a dwelling and garage under policy CTY2a.	
<b>Deferred Consideration:</b>  This application for a dwelling in a cluster was recommended for refusal at October Planning Committee. It was contended by the case officer that the cluster was not a visual entity in the landscape and wasn't bounded on 2 sides with other development. Issues were also raised about prominence and the lack of integration afforded by the site. Members agreed to defer this application for an office meeting.	

At the office meeting the agent made a case for compliance with CTY2A of PPS 21. It was argued that the Castledawson Roundabout is a obvious focal point in this immediate area and by its very presence and when viewed with adjacent developments such as the park and ride, KFC, dwellings, industrial buildings and the new road it has a unique visual entity at this location. It was further argued that a dwelling on this site would be a rounding off of this cluster and that the Farm Dwelling to the East and walkway to the bridge over the roundabout could both be considered development on the SE section of the site.

Having carried out a site inspection i would agree that the Castledawson Roundabout and the range of other development adjacent to the roundabout, in particular the development to the West does give this area its own visual entity as a cluster. I would also agree that the Roundabout itself is a focal point. There is more limited development to the East of the roundabout but from standing on site the area does feel urbanised and lacking of any rural character. The farm dwelling to the SE of the site and walkway to the bridge could only loosely be considered development bounding the site but there is still an appreciation of some form of development.

The site rises gently in a Northern direction from the public road and whilst it has limited boundary treatment, a modest single storey dwelling would benefit from a backdrop of rising landform and semi mature trees further to the North. It would also read and cluster with the adjacent 2 storey dwelling and outbuilding to the West. This would go some way to further integrating a dwelling on this site.

When considering the surrounding context which takes in 4 busy main roads, a large roundabout with walkway/bridge, various industrial, commercial and residential buildings, it is my opinion that any rural character on sites adjacent to the roundabout has already been lost and replaced by urban style development.

On re-consideration of this proposal I recommend that it be approved as a dwelling in an existing cluster. Any dwelling should however be conditioned to have a 5.5m ridge height and new planting provided along all boundaries. At Reserved Matters stage, if a dwelling and hardsurfacing in excess of 1000m<sup>2</sup> is proposed a Drainage Assessment will be required in line with the provisions of PPS 15.

### **Conditions/Reasons for Refusal:**

#### **Approval Condtions**

##### **Condition 1**

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

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

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

##### **Condition 2**

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

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

#### Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form, including visibility splay of 2.4m x 60m in each direction and a forward sight distance of 60m prior to commencement of development.

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

#### Condition 4

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level.

Reason: To ensure that the development satisfactorily integrates and is not overly prominent on this roadside site.

#### Condition 5

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

Reason: In the interest of visual amenity

#### Condition 6

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

Reason: To ensure the dwelling integrate into the landform

#### Condition 7

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

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

**Signature(s):**Karla McKinless

**Date:** 19 January 2023



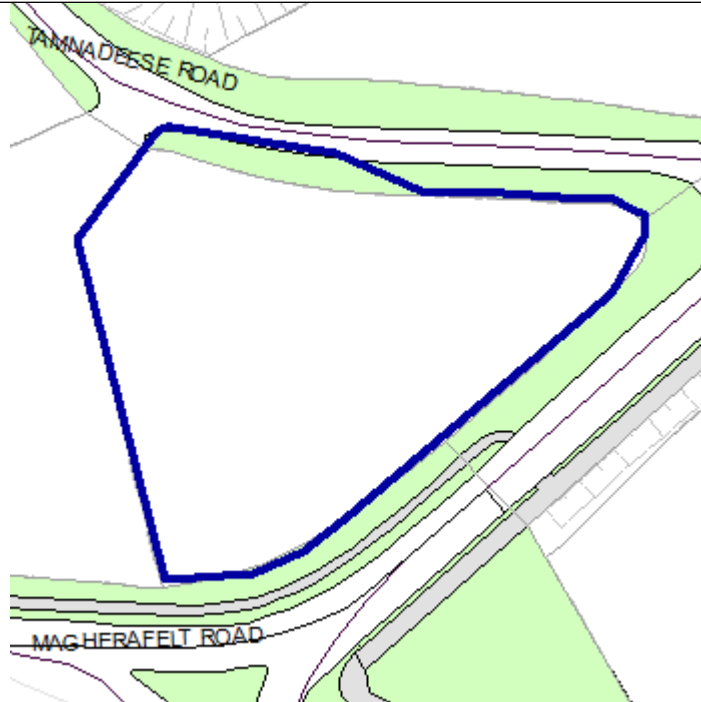


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 October 2022	<b>Item Number:</b> 5.3
<b>Application ID:</b> LA09/2021/1449/O	<b>Target Date:</b> 30 November 2021
<b>Proposal:</b> Proposed dwelling and garage within a cluster site	<b>Location:</b> 15M East Of 6 Tamnadeese Road Castledawson
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Derek Fulton 91 Moneymore Road Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: YResponseType: FR
	Rivers Agency	Substantive: TBCResponseType: FR

### Representations:

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

### Summary of Issues

None

### Characteristics of the Site and Area

The site in question is located approx 15M East of 6 Tamnadeese Road, Castledawson and is located outside any designated settlement limits as identified in the Magherafelt Area Plan, 2015. The proposed site is an irregular triangular shaped parcel of land with boundaries of hedgerow and scattered vegetation. The roadside boundary is relatively exposed. The wider surrounding area can be characterised as open countryside and mixed use of residential and commercial.

The site plot size measuring approximately 0.44 of a hectare and the topography elevates in a west to north west direction.

### **Description of Proposal**

The applicant is seeking outline planning approval for a dwelling and garage under policy CTY2a.

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

#### **Policy Consideration**

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

The Strategic Planning Policy Statement (SPPS) for Northern Ireland-Planning for Sustainable Development, is a material consideration. The SPPS sets out that planning authorities should be retained under transitional arrangements. The SPPS sets out that planning authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. Until a Plan Strategy for the whole of the Council area has been adopted planning applications will be assessed against existing policy.

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.

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations.

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

The application is considered against the following:

SPSS

The Magherafelt Area Plan 2015,  
PPS 21 Sustainable Development in the Countryside  
PPS 3 Access, Movement and Parking.

#### 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.

Policy CTY1 of PPS21 states that there are a range of types of development which are considered to be acceptable in principle in the countryside and that will contribute to the aims of sustainable development. It goes on to state that planning permission will be granted for an individual dwelling house in the countryside in six cases. One of these is a dwelling sited within an existing cluster of buildings in accordance with Policy CTY2a.

The principle of the application is considered under PPS 21, CTY 2a, New Dwellings in Existing Clusters under CTY 2a all criteria must be met.

- a) 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;
- b) The cluster appears as a visual entity in the local landscape;
- c) The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads,
- d) The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- e) 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
- f) Development would not adversely impact on residential amenity.

The proposal fails a number of the above criteria under PPS 21, CTY2a, namely b, c, d, and e. The proposed cluster does not appear as a visual entity in the local landscape and the proposed focal point for the application is the existing Castledawson roundabout. The site is not bounded on at least two sides with other development in the cluster and which there is some degree of vegetation along the boundaries of the site, I do not feel that it is sufficient to provide an acceptable degree of enclosure. The proposal if permitted, would fail integrate successfully into the surrounding landscape and would not be adequately absorbed into the existing landscape and rural area. The site is elevated quite steeply and a dwelling here would be unduly prominent, visually intrusive and open to critical views.

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 is for outline planning permission and details of design have not been submitted at this stage. However, the proposed site is a roadside location and given the topography of the site and the steep elevations of the land, I believe that the proposal has the potential to be prominent and visually intrusive on the site. The site lacks sufficient natural boundaries to aid integration and provide a suitable degree of enclosure for the proposal dwelling to integrate into the local 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 the area. Rural character is somewhat lacking in this area due to the mixed use around Castledawson roundabout, I believe that a dwelling here would not significantly impact on the rural character of the area.

#### PPS 3 Access, Movement and Parking

DFI Roads were consulted on this proposal and responded to say they had no objections subject to conditions being added.

#### Conclusion

In conclusion I consider the proposal to be unacceptable as it is contrary to PPS 21, Policy CTY2A and CTY 13 and recommend permission is refused.

#### Summary of Recommendation:

The proposal to be unacceptable as it is contrary to PPS 21, Policy CTY2A and CTY 13 and recommend permission is refused.

#### Summary of Recommendation:

Refuse is recommended

#### Refusal Reasons

##### Reason 1

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape.

##### Reason 2

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New

Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster.

**Reason 3**

The proposal is contrary to Policy CTY 13 of Planning Policy Statement 21, - Integration and Design of Buildings in the Countryside in that a dwelling located on this site would be visually intrusive and a prominent feature in the landscape due to the steep elevations and topography of the site. The application site lacks sufficient natural boundaries and would be unable to provide a suitable degree of enclosure for the proposed dwelling to integrate sufficiently into the landscape.

**Signature(s):** Siobhan Farrell

**Date:** 22 September 2022

<b>ANNEX</b>	
<b>Date Valid</b>	5 October 2021
<b>Date First Advertised</b>	19 October 2021
<b>Date Last Advertised</b>	19 October 2021
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 6 Tamnadeese Road Castledawson Londonderry BT45 8DW The Owner / Occupier 7 Tamnadeese Road Castledawson Londonderry BT45 8DW The Owner / Occupier 36 Magherafelt Road Castledawson Londonderry BT45 8DN	
<b>Date of Last Neighbour Notification</b>	18 October 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: YResponseType: FR Rivers Agency-Substantive: TBCResponseType: FR	
<b>Drawing Numbers and Title</b>          Site Layout or Block Plan   Plan Ref: 02          Site Location Plan   Plan Ref: 01	

**Notification to Department (if relevant)**

Not Applicable





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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0122/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Dwelling in accordance with CTY7 of PPS21	<b>Location:</b> Land 20m South East of 96 Reenaderry Road Derrytresk Coalisland
<b>Applicant Name and Address:</b> Mr Stephen McCaffrey 8 Dernmore Close Clonoe	<b>Agent Name and Address:</b> Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
<b>Summary of Issues:</b>  This application is for a dwelling for a business that has not been established and information has not been provided to show why it is essential. The site is also located within a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions and a dwelling is not an exception.	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside 1 in 100 year flood area	
<b>Characteristics of the Site and Area:</b>  The site is located in the rural countryside as defined by the Dungannon and South Tyrone Area Plan 2010, approx. 1.6km northeast of Tamnamore and adjacent the Reenaderry Rd.	



Fig 1: View of site, identified by red arrow, on southwest approach along Reenaderry Rd.

The site is a relatively open and flat square shaped plot comprising a large roadside field albeit excluding a narrow strip of the field to the southwest of the site. The roadside portion of the excluded strip comprises a gravelled yard containing a mobile building and ancillary informal parking (see Fig 1, above).

Post and wire fencing and low hedging interspersed few trees defines the northwest (roadside), northeast and southeast (rear) boundaries of the site. The southwest boundary of the site is open on the remainder of the host field and the aforementioned gravelled yard.



Fig 1: View of site, identified by red arrow, on northeast approach along Reenaderry Rd.

Critical views of the site are from the minor Reenadeery Rd over a short distance on southwest approach, longer distance on northeast approach and passing along its roadside frontage.

The immediate area is largely characterised by flat low-lying agricultural land interspersed with single dwellings, ancillary buildings and farm holdings; and its location just north of Coalisland Disused Canal, which connects into the River Blackwater. A modest (listed) dwelling sits immediately adjacent the Canal (archaeological site and monument) just southwest of the host field; and two bungalows (nos. 96 & 96a Reenaderry Rd) sits immediately northwest site to the opposite side of the road. The two bungalows are bound to the southwest and northeast respectively by what appear to be a large industrial shed with a gravelled yard to the front and another large industrial shed on a much larger gravelled yard containing no. of lorries / lorry trailers. The industrial sheds and yards noted alongside the small gravelled yard to the southwest of the site containing a mobile appear to be in association with 'McCaffrey Transport'.

### Description of Proposal

This is an outline application for a proposed dwelling in accordance with CTY7 of PPS21 to be located on lands 20m South East of 96 Reenaderry Road Derrytresk Coalisland.

### Deferred Consideration:

This application was before the Committee on 7 June 2022 with a recommendation to refuse, where it was deferred for meeting with the Service Director. At the deferral meeting on 16 June 2022 it was indicated the proposal is for the son of the owner of the haulage business here. The owner wishes to retire and this dwelling is for his son to live in and due

to the high value of the equipment and other items that are stored here someone is needed on site for security purposes. The applicants son currently lives 10-15 miles away and has outgrown there house and needs a larger dwelling as well. At the meeting it was indicated there is a dwelling here which the applicant could live in to provide the security, or the applicants father is still on site and could provide the necessary security. It was indicated that all the lands owned by the applicant is within the 1 in 100 year flood plain and contrary to planning policy FLD1 of PPS15. The applicants representative was advised that this could only be challenged by the submission of a report from a hydrologist.

Members will be aware that Policy CTY7 has a requirement to prove there is a need for a dwelling for an established non-agricultural business. There is a haulage yard here that does not have the benefit of planning permission and no details have been provided to certify that it is immune from enforcement action. The enforcement team have been alerted to this. A business may only be certified as lawful for planning purposes through the submission of a successful application for a certificate of lawful use or development. No such certificate exists here. As it has not been demonstrated there is an established business here then it cannot be demonstrated there is a need for dwelling for that business.

The site and lands around it are within an area that DFI Rivers records indicate is within a 1 in 100 year flood event. There are some categories of development which may be permitted in these areas however a dwelling is not one of these categories. The policy does not allow for infilling to raise development out of a flood area as this is moving the problem elsewhere and could result in someone else's property being flooded due to the displacement of flood water. A hydrological report for this area is likely to be a very costly due to the extensive nature of it as it would be modeling the entire Lough Neagh basin.



As there has been no new information presented to justify this proposal and it is in a flood plain I recommend planning permission is refused.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated it is required in

connection with an established non-agricultural business enterprise.

3. The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

**Signature(s)**

**Date:**





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

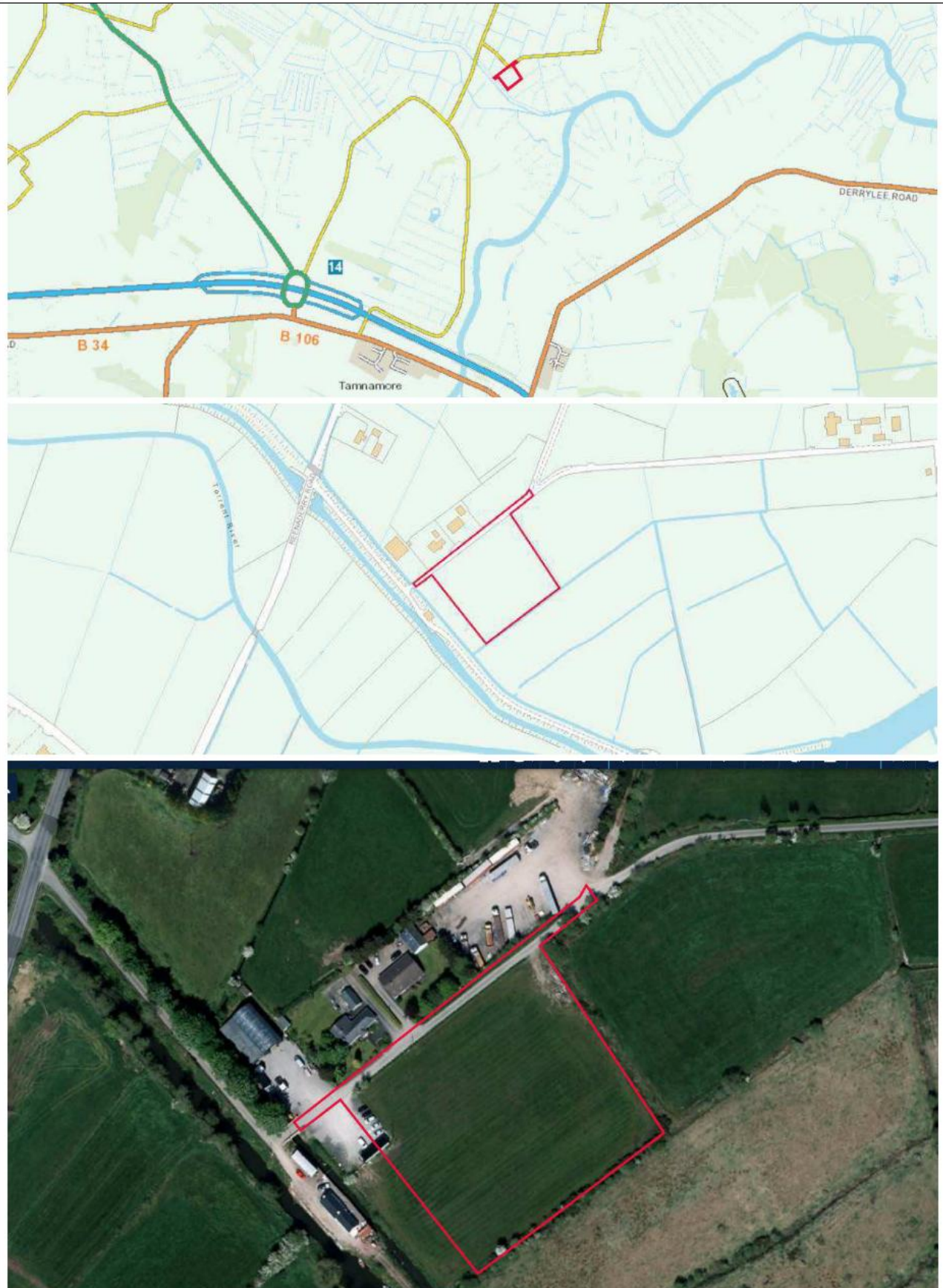
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0122/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling in accordance with CTY7 of PPS21	<b>Location:</b> Land 20m South East of 96 Reenaderry Road Derrytresk Coalisland
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Stephen McCaffrey 8 Dernmore Close Clonoe	<b>Agent Name and Address:</b> Darcon Architectural Services 6 Ardean Close Moortown BT80 0JN
<b>Executive Summary:</b> The proposal is contrary to: Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.  The Policy CTY7 of PPS 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated it is required in connection with an established non-agricultural business enterprise; and  Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan




Consultations:		
Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Non Statutory	Shared Environmental Services	Substantive Response
Statutory	Rivers Agency	Advice
Statutory	Historic Environment Division (HED)	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Description of Proposal		
This is an outline application for a proposed dwelling in accordance with CTY7 of PPS21 to be located on lands 20m South East of 96 Reenaderry Road Derrytresk Coalisland.		
Characteristics of the Site and Area		
The site is located in the rural countryside as defined by the Cookstown Area Plan 2010, approx. 1.6km northeast of Tamnamore and adjacent the Reenaderry Rd.		
		

Fig 1: View of site, identified by red arrow, on southwest approach along Reenaderry Rd.

The site is a relatively open and flat square shaped plot comprising a large roadside field albeit excluding a narrow strip of the field to the southwest of the site. The roadside portion of the excluded strip comprises a gravelled yard containing a mobile building and ancillary informal parking (see Fig 1, above).

Post and wire fencing and low hedging interspersed few trees defines the northwest (roadside), northeast and southeast (rear) boundaries of the site. The southwest



boundary of the site is open on the remainder of the host field and the aforementioned gravelled yard.



Fig 1: View of site, identified by red arrow, on northeast approach along Reenaderry Rd.

Critical views of the site are from the minor Reenadeery Rd over a short distance on southwest approach, longer distance on northeast approach and passing along its roadside frontage.

The immediate area is largely characterised by flat low-lying agricultural land interspersed with single dwellings, ancillary buildings and farm holdings; and its location just north of Coalisland Disused Canal, which connects into the River Blackwater. A modest (listed) dwelling sits immediately adjacent the Canal (archaeological site and monument) just southwest of the host field; and two bungalows (nos. 96 & 96a Reenaderry Rd) sits immediately northwest site to the opposite side of the road. The two bungalows are bound to the southwest and northeast respectively by what appear to be a large industrial shed with a gravelled yard to the front and another large industrial shed on a much larger gravelled yard containing no. of lorries / lorry trailers. The industrial sheds and yards noted alongside the small gravelled yard to the southwest of the site containing a mobile appear to be in association with 'McCaffrey Transport'.

### **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

Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Planning History**

No relevant planning history

### **Consultees**

1. River's Agency (River's) were consulted as Flood Maps NI indicated the site was located within the fluvial floodplain. River's responded as follows from a drainage and flood risk aspect under PPS15 (Revised) Planning and Flood Risk, Policy:
  - FLD1 Development in Fluvial Flood and Coastal Plains - The Strategic Flood Map indicates the site lies entirely within the 1 in 100 year fluvial flood plain. Development within the flood plain is contrary to Policy FLD 1 and would require the Planning Authority to deem it an exception, then to allow proper consideration of flood risk to the site Rivers recommend the applicant undertakes a Flood Risk Assessment (FRA) appropriate to the scale of development. The FRA should be carried out under the direction of a qualified and competent professional. Taking into account the precautionary approach of PPS 15 it is recommend that any new development be allowed an additional freeboard of 600mm.
  - *FLD2 - Protection of Flood Defence and Drainage Infrastructure* – An undesignated watercourse flows along the eastern and southern boundary of the site. Under para. 6.32 of the policy a 5m maintenance strip is required unless the watercourse can be maintained from the opposite bank by agreement with the landowner.
  - *FLD3 - Development and Surface Water* - If the proposal involves an increase in hardstanding of 1000m<sup>2</sup> or more, then a Drainage Assessment is required. If a Drainage Assessment is not required by the policy the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere.

With regard to the above, specifically bullet point 1, Planning does not deem this proposal an exception under Policy FLD 1 of PPS15 therefore it is contrary to

Policy FLD 1 of PPS15 and the additional information required i.e. FRA has not been requested. The principle of this development has not been established.

2. DfI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal would comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
3. Historic Environment Division (HED) were consulted as the site is located within the buffer of an archaeological site and monument (TYR047:502 - Coalisland Canal) and in close proximity to a Listed Building (HB13/04/016 - Canal structure 'Lock House')
  - HED (Historic Buildings) considered the impacts of the proposal on the building and advised that it requires additional information to allow a substantive response under Paragraph 6.12 (setting) of SPPS for Northern Ireland and Policy BH 11 (Development affecting the Setting of a Listed Building) of the Department's Planning Policy Statement 6: Planning, Archaeology and the Built Heritage.
  - HED (Historic Monuments) is content the proposal is acceptable to SPPS and PPS6 policy requirements subject to conditions and informatives.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by Historic Buildings has not been requested.

4. NIEA – were consulted as the site appears to connect to the Torrent River / Coalisland Canal to the south providing a potential pathway to designated sites (SACs / SPA / Ramsar sites).
  - Water Management Unit is content with the proposal subject to Conditions, the applicant noting the advice in the Explanatory Note, referring and adhering to Standing Advice and obtaining any relevant statutory permissions.
  - Inland Fisheries is content the application in principle is unlikely to have any significant impact on fisheries interests in the vicinity, but would require more detailed information.
  - Natural Environment Division (NED) has considered the impacts of the proposal and requires further information to be able to determine whether the proposal would have a likely significant effect on a protected sites. NED highlights the application site is within and hydrologically linked, to Lough Neagh and Lough Beg SPA and RAMSAR, which are designated under the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended); and Lough Neagh ASSI which is declared under the Environment Order (Northern Ireland) 2002 (as amended). As such, NED recommend that that the applicant must demonstrate how they intend to ensure that there will be no adverse impacts upon the designated sites during the construction and operational phases of the development. Additionally, NED seeks a Preliminary Ecological Appraisal to assess the site for potential natural heritage interests and the location of the proposed septic tank and soakaway.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by Inland Fisheries and NED has not been requested.

5. Shared Environmental Services (SES) – considered this application in light of the assessment requirements of Regulation 43 (1) of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended). SES advised the proposed development is situated wholly within Lough Neagh and Lough Beg Ramsar site. It also lies within the fluvial flood plain. Watercourses adjacent to the site provide a potential pathway for likely significant effects to Lough Neagh and Lough Beg SPA. Further information is required to enable a Habitats Regulations Assessment (HRA) to be completed as follows:
  - DfI Rivers has requested that if the proposed development is to be considered as an exception to PPS15, a Flood Risk Assessment is required. This information is required to inform the HRA in respect of the proposal's location within the flood plain.

As detailed further above, this proposal is contrary Policy FLD 1 of PPS15 Planning and Flood Risk. As such, the principle of this development has not been established and the additional information required by SES has not been requested.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 'Development in the Countryside'. The applicant has applied under one of these instances Policy CTY 7 of PPS 21 - Dwellings for Non-Agricultural Business Enterprises.

Policy CTY 7 states planning permission will be granted for a dwelling house in connection with an established non-agricultural business enterprise where a site specific need can be clearly demonstrated that makes it essential for one of the firm's employees to live at the site of their work. Where such a need is accepted the dwelling house will need to be located beside, or within, the boundaries of the business enterprise and integrate with the buildings on the site. Planning permission granted under this policy will be subject to a condition restricting occupation of the dwelling for the use of the business.

The applicant's father submitted a letter on the 11<sup>th</sup> April 2022 to advise that he Martin McCaffrey, who resides at 96 Reenaderry Rd located opposite the site, is the director of McCaffrey Transport Ltd located adjacent the site. That he requires the presence of his son Stephen McCaffrey, on a full-time basis, fully engaged with their family run business. He states that due to the nature of the business out of hours attendance is required 7 days a week. That they have around 20 employees covering a range of shift patterns which his son Stephen assists and manages, as he is not present at all times. As well as managing the employees of the business, he states Stephen manages the financial aspects together with the maintenance and breakdowns. That this regularly requires Stephen to be on site to make and organise repairs at any time of the day or night. Stephen does not currently reside at the business address and this adds difficulty as he has a young family. Stephens' intention to build and reside with his young family will relieve a lot of pressure on him and the business as he also cares for his elderly mother who resides at the neighbouring property 96a Reenaderry Rd. As he devotes a lot of time to caring for his mother he intends to make Stephen a managing director of the business in the near future.

Whilst the information above has been taken into account it has not been demonstrated that in the first instance there is an established non-agricultural business enterprise on or neighbouring this site. Whilst as detailed in 'Characteristics of Site and Area a business 'McCaffrey Transport Ltd' sits adjacent to this site, over a no. of gravelled yards, no planning history for this business exists.

According, I consider this proposal as it stands contrary to Policies CTY1 and CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not merit being considered as an exceptional case as it has not been demonstrated it is in connection with an established non-agricultural business enterprise.

Bearing in mind all of the above. A the principle of this development has not been established under Policy FLD 1 of PPS 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy, additional information to demonstrate there is a non-agricultural business enterprise has not been requested. Nor has additional information to address issues raised by HED, NIEA and SES (see 'Consultees' above).

#### Additional considerations

The site is located within SG Defence Estates relating to Met Office Radar however this proposal would be under the 15.2m height threshold for consultation to Defence Estates. The site is also located within an area of constraint on wind turbines however proposal is for a dwelling.

**Recommendation:** Refuse

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation</b>	Refuse

**Refusal reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY7 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated it is required in connection with an established non-agricultural business enterprise.
3. The proposal is contrary to Policy FLD 1 'Development in Fluvial (River) and Coastal Flood Plains' of Planning Policy Statement 15: Planning and Flood Risk in that the proposal is located within the 1 in 100 year fluvial flood and does not constitute an exception to the policy.

**Signature(s)**

**Date:**



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

### Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0168/O	<b>Target Date:</b> 6 April 2022
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 25M North Of 2 Coltrim Lane Moneymore
<b>Applicant Name and Address:</b> Mr Mark Hamilton 50 Cookstown Road Moneymore	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is located approximately 1.1km south west of the development limits of Moneymore in the rural area, as defined in the Cookstown Area Plan 2010. The site is proposed to be accessed from an existing access which serves a residential dwelling and Railway Karting. The area is characterised with a mix of agricultural uses, dwellings, Railway Karting and J&K Coaches.	
<b>Description of Proposal</b>  This is an outline application for a proposed dwelling and garage in a cluster.	



**Deferred Consideration:**

This application was presented before the Planning Committee in June 2022 with a recommendation to refuse. Members agreed to defer the application for an office meeting with the Planning Manager which took place 16 June 2022.

Following the office meeting I carried out a site visit. It is apparent from the site location plan the agent is relying on the existence of two focal points, 3 dwellings and 2 approved outline sites to meet the tests of Policy CTY 2a of PPS 21.

CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the six criteria are met. The key issues in this case are

- Cluster does not appear as a visual entity in the local landscape.
- The cluster is associated with a focal point.

If the first three criteria can be met it follows that the site is assessed as to whether it can meet the last three criteria of CTY 2a.

Dealing with the first criteria, it states the cluster of development must lie outside of a farm and consist of four or more buildings of which at least three are dwellings. There are three dwellings with some outbuildings, and it can be said there is a cluster of development, therefore fulfilling the first criteria.

There is an area of land accessed off the Coltrim Road which is currently used as a bus park by JK Coaches. The second criteria require the cluster to appear as a visual entity in the local landscape. Due to the distance and vegetation between the buildings in the cluster it is my opinion these do not appear as a visual entity in the local landscape. The third criteria require the cluster to be associated with a focal point. I agree the bus park can be considered as a focal point, but as the cluster of development does not appear as a visual entity in the landscape it cannot be read as being associated with this focal point and the agent is relying on the approval of two infill dwellings, which have only been approved at outline stage and not yet built, for further dwellings in a cluster.

The agent then refers to a focal point at the Railway Karting track on the site location plan. In assessing if there is a cluster of development, I will go through each of the three aforementioned criteria.

Once again it is clear the agent is relying on the as yet unbuilt dwelling houses which have been approved at outline state. Whilst the dwellings at Nos 2 Coltrim Lane and 50 Cookstown Road can be read together from certain vantage points, they cannot be read with the required third dwelling at No 46 Cookstown Road, and as such they do not read as part of a visual entity as part of a cluster of development. As I do not consider there is a cluster of development which can be read as a visual entity, the cluster is not associated with a focal point, either at Railway Karting or J&K Coach park.

It is apparent the agent is trying to marry the two focal points together and rely on sparsely located houses to create the cluster as a visual entity. This is not within the spirit of the policy. No 46 Cookstown Road cannot be read from any public viewpoints and so it fails to read as



contributing to a cluster of development and does not appear as a visual entity in the local landscape. In trying to achieve this, the agent has created a site which he contends has a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The red line has been drawn in such a way that shows there is development on at least two sides. However, the two sites with outline approval have not been built and a large red line has been drawn to include both No 2 Coltrim Lane and No 50 Cookstown Road and therefore only one side of the proposed site is bounded by other development in the cluster. The agent has also identified No 48 Cookstown Road as a residential dwelling to be included in the number of dwellings for the purposes of the cluster. This is not a residential dwelling, and this is confirmed with a check of the Valuation and Lands Agency register which confirms this is a non-domestic building.

It is my opinion, for the various reasons above, the cluster of development does not read as a visual entity in the local landscape. I therefore conclude the site does not provide a suitable degree of enclosure and it is not bounded on at least two side with other development in the cluster. The site will visually intrude into the open countryside. There are no issues of concern with regards to an adverse impact on residential amenity.

For the reasons above I consider the application fails to meet the first five criteria of Policy CTY 2a and a refusal is being recommended.

**Conditions/Reasons for Refusal:**

**Approval Conditions**

**Signature(s):**Karen Doyle

**Date:** 20 December 2022





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0168/O	<b>Target Date:</b> 6 April 2022
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 25M North Of 2 Coltrim Lane Money more
<b>Applicant Name and Address:</b> Mr Mark Hamilton 50 Cookstown Road Money more	<b>Agent Name and Address:</b> Cmi Planners 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  This is an outline application for a proposed dwelling and garage in a cluster.	
<b>Deferred Consideration:</b>  This application was presented before the Planning Committee in June 2022 with a recommendation to refuse. Members agreed to defer the application for an office meeting with the Planning Manager which took place 16 June 2022. The application was presented with a further recommendation to refuse in January 2023 where it was agreed by Members to defer the application for a site visit with Members. The site visit took place on 24 January 2023. At the site visit the policy context of CTY 2a was discussed and Members took in all the required view points.  It is still my opinion the agent is relying on the existence of two focal points, 3 dwellings and 2 approved outline sites to meet the tests of Policy CTY 2a of PPS 21.	



CTY2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all of the six criteria are met. The key issues in this case are - Cluster does not appear as a visual entity in the local landscape. - The cluster is associated with a focal point.

If the first three criteria can be met it follows that the site is assessed as to whether it can meet the last three criteria of CTY 2a.

Dealing with the first criteria, it states the cluster of development must lie outside of a farm and consist of four or more buildings of which at least three are dwellings. There are three dwellings with some outbuildings, and it can be said there is a cluster of development, therefore fulfilling the first criteria.

There is an area of land accessed off the Coltrim Road which is currently used as a bus park by JK Coaches. The second criteria require the cluster to appear as a visual entity in the local landscape. Due to the distance and vegetation between the buildings in the cluster it is my opinion these do not appear as a visual entity in the local landscape. The third criteria require the cluster to be associated with a focal point. I agree the bus park can be considered as a focal point, but as the cluster of development does not appear as a visual entity in the landscape it cannot be read as being associated with this focal point and the agent is relying on the approval of two infill dwellings, which have only been approved at outline stage and not yet built, for further dwellings in a cluster.

The agent then refers to a focal point at the Railway Karting track on the site location plan. In assessing if there is a cluster of development, I will go through each of the three aforementioned criteria.

Once again it is clear the agent is relying on the as yet unbuilt dwelling houses which have been approved at outline state. Whilst the dwellings at Nos 2 Coltrim Lane and 50 Cookstown Road can be read together from certain vantage points, they cannot be read with the required third dwelling at No 46 Cookstown Road, and as such they do not read as part of a visual entity as part of a cluster of development. As I do not consider there is a cluster of development which can be read as a visual entity, the cluster is not associated with a focal point, either at Railway Karting or J&K Coach park.

It is apparent the agent is trying to marry the two focal points together and rely on sparsely located houses to create the cluster as a visual entity. This is not within the spirit of the policy.

No 46 Cookstown Road cannot be read from a public view point and so it fails to read as contributing to a cluster of development and does not appear as a visual entity in the local landscape. In trying to achieve this, the agent has created a site which he contends has a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster. The red line has been drawn in such a way that shows there is development on at least two sides. However, the two sites with outline approval have not been built and a large red line has been drawn to include both No 2 Coltrim Lane and No 50 Cookstown Road and therefore only one side of the proposed site is bounded by other development in the cluster. The agent has also identified No 48 Cookstown Road as a residential dwelling to be included in the number of dwellings for the purposes of the cluster. This is not a residential dwelling, and this is confirmed with a check of the Valuation and Lands Agency register which confirms this is a nondomestic building.

It is my opinion, for the various reasons above, the cluster of development does not read as a visual entity in the local landscape. I therefore conclude the site does not provide a suitable degree of enclosure and it is not bounded on at least two side with other development in the cluster. The site will visually intrude into the open countryside. There are no issues of concern with regards to an adverse impact on residential amenity.

For the reasons above I consider the application fails to meet the first five criteria of Policy CTY 2a and a refusal is being recommended.

#### **Conditions/Reasons for Refusal:**

##### **Refusal Reasons**

###### **Reason 1**

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

###### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point or is not located at a cross-roads, the site is not bounded on at least two sides with other development in the cluster and the dwelling would if permitted visually intrude into the open countryside.

###### **Reason 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 result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s):**Karen Doyle

**Date:** 24 January 2023





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0168/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed domestic dwelling and garage in a cluster	<b>Location:</b> 25m North of 2 Coltrim Lane Moneymore
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 2a of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Mark Hamilton 50 Cookstown Road Moneymore	<b>Agent Name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1 and 2a of PPS 21.

### Characteristics of the Site and Area

The site is located approximately 1.1km south west of the development limits of Moneyore, from such the site is located in the open countryside as per defined by the Cookstown Area Plan 2010. The site is identified as 25m North of 2 Coltrim Road, Moneyore, in which the red line covers a portion of a much larger agricultural field. I note that the intention is to use an existing access that already serves a residential dwelling and go kart facility. I note that the immediate and surrounding area are predominately agricultural land uses with a scattering of residential dwellings and go kart facility nearby.

#### Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.



## Description of Proposal

This is an outline application for a proposed domestic dwelling and garage in a cluster, the site is identified as 25m North of 2 Coltrim Lane, Moneymore.

## Planning Assessment of Policy and Other Material Considerations

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 -Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

Upon review of the guidance I am content that the cluster lies outside a farm and consists of four or more buildings, wherein three of which are dwellings. I note that two sites have been approved to the north of No. 2 Coltrim Road however these are only outline approvals. However, given the distance between the dwellings it is not clear that the cluster appears as a visual entity.

In terms of a focal point, the agent has identified the 'go kart facility' north of the 50 Cookstown Road and the 'Bus park' along Coltrim Road as the second. I am content that both can be constituted as focal points in their own right. However taking the 'go kart facility' first, whilst I acknowledge that it has association with no. 50 Cookstown Road, it does not have any association with No.2 Coltrim Road given the separation distance between the two so cannot be seen to have association with the whole cluster. Likewise, the 'bus park' appears to have association with No.2 Coltrim Road but no association with Nos. 46 and 50 Cookstown Road. As such I hold the view that the application has failed to demonstrate an associated focal point with the cluster.



In terms of enclosure I note that the site bounds with two dwellings one on the eastern boundary and one on the southern boundary, wherein I am content that the site is suitably bounded and will subsequently be absorbed into the cluster without significantly altering the existing character of the area. Finally, I am content that a dwelling in this location is unlikely to have an adverse impact on residential amenity. Given the issues with being a visual entity and the focal point I hold the view that the application fails under CTY 2a.

I note that the agent confirmed that there were no other cases that this application could be considered under, upon review of the remaining policies under CTY 1 I would agree with this, as such it will be taken forward as a refusal.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I am content that an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 8m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

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.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>	
Refusal	
<b>Reasons for Refusal:</b>	
<p>1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.</p>	

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape and the cluster is not associated with a focal point or is not located at a cross-roads.

Signature(s)



Date:

8/5/22.

ANNEX	
<b>Date Valid</b>	9th February 2022
<b>Date First Advertised</b>	22nd February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Coltrim Road, Moneymore, Londonderry, BT45 7QG The Owner/Occupier, 2 Coltrim Lane, Moneymore, Londonderry, BT45 7YZ The Owner/Occupier, 46 Cookstown Road Moneymore Londonderry The Owner/Occupier, 50 Cookstown Road Moneymore Londonderry	
<b>Date of Last Neighbour Notification</b>	24th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: I/2000/0190/F Proposal: Use of land for cart track Address: Adjacent to no 46 Cookstown Road Moneymore Decision: Decision Date: 20.12.2000  Ref ID: I/2000/0827/F Proposal: Replacement dwelling Address: Railway View Cookstown Road Moneymore Decision: Decision Date: 28.02.2001  Ref ID: LA09/2018/0500/LDP Proposal: Proposal for the erection of a new dwelling & garage. Address: Coltrim Lane, Moneymore (Approx. 220m from junction with cookstown road)., Decision: PR Decision Date:  Ref ID: LA09/2017/0810/F Proposal: New Dwelling Address: Coltrim Lane, Moneymore (approx. 220m from Junction with Cookstown Road),	



Decision: DEF

Decision Date:

Ref ID: LA09/2020/1244/O

Proposal: Proposed infill dwelling & garage (site 2).

Address: 25m NE of 2 Coltrim Road Moneymore.,

Decision: PG

Decision Date: 02.03.2021

Ref ID: LA09/2017/1490/F

Proposal: Retrospective widening of existing access and laneway (amended description)

Address: Adjacent to 50 Cookstown Road, Moneymore,

Decision: PG

Decision Date: 07.06.2018

Ref ID: LA09/2020/1238/O

Proposal: Infill dwelling & garage (site 1)

Address: 70m NE of 2 Coltrim Road Moneymore,

Decision: PG

Decision Date: 15.02.2021

Ref ID: LA09/2016/1259/F

Proposal: Variation of Condition No's 3 and 4 of Planning Approval I/2000/0565/F

Address: Adjacent to 46 Cookstown Road, Moneymore,

Decision: PG

Decision Date: 27.06.2017

Ref ID: I/2002/0208/F

Proposal: Reduction in the area of car parking area from that originally approved under planning permission I/2000/0565.

Address: Cart Track, adjacent to No 46 Cookstown Road Moneymore

Decision:

Decision Date: 23.12.2002

Ref ID: I/2001/0619/F

Proposal: Office and Store

Address: Adjacent to 46 Cookstown Road Moneymore

Decision:

Decision Date: 13.01.2004

Ref ID: I/2000/0565/F

Proposal: Use of land for cart track

Address: Adjacent to 46 Cookstown Road Moneymore

Decision:

Decision Date: 18.06.2001

Ref ID: I/1999/0490/O

Proposal: Dwelling house

Address: Adjacent to no 46 Cookstown Road Moneymore

Decision:

Decision Date: 14.04.2000

Ref ID: I/2001/0257/F

Proposal: Bus parking area with ancillary facilities including small building - office, WC and canteen

Address: 120 metres south east of Coltrim Cross Roads Coltrim Lane Moneymore

Decision:

Decision Date: 01.10.2002

Ref ID: I/2000/0334/F

Proposal: Dwelling

Address: Adjacent to no 46 Cookstown Road Moneymore

Decision:

Decision Date: 08.11.2000

Ref ID: I/2004/0081/F

Proposal: Amendment to previous condition 03 on Planning Permission I/2000/0565 for the approval of 2 No Karts (Rotax Leisure Kart) as tested and evaluated in accordance with guidelines agreed with statutory bodies

Address: Adjacent to no. 46 Cookstown Road, Moneymore

Decision:

Decision Date: 01.07.2004

Ref ID: LA09/2021/1594/F

Proposal: Part retrospective application for extension to existing car parking area

Address: 80m NW of 48 Cookstown Road, Moneymore,

Decision:

Decision Date:

Ref ID: LA09/2022/0168/O

Proposal: Proposed domestic dwelling and garage in a cluster

Address: 25m North of 2 Coltrim Lane, Moneymore,

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:





## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2022/0242/F	<b>Target Date:</b> 21 April 2022
<b>Proposal:</b> Retention of domestic store as built (not in accordance with LA09/2021/0259/F)	<b>Location:</b> 20 Ardchrois Donaghmore
<b>Applicant Name and Address:</b> Conrad McGuigan 20 Ardchrois Donaghmore Co Tyrone	<b>Agent name and Address:</b> C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Summary of Issues:</b>	
<b>Summary of Consultee Responses:</b>	
<b>Characteristics of the Site and Area</b>  The site is within the settlement limit of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010.  To the southwest and abutting the boundary of the site contains an operational petrol filling station, a 'Todays Extra' shop and its curtilage which includes hard surfaced forecourt, pumps, canopy, car wash, external customer toilets and ancillary parking. The filling station sits adjacent and fronting unto the Pomeroy Road, to the very north of the village, close to the edge of the settlement limits and just southeast of Backford Bridge.  The curtilage of the filling station is bound along its roadside frontage by a footpath; its rear and south side by low fencing; and its north side by the Torrent River which is lined by a mix of mature vegetation.  The filling station / shop is a single storey building with a relatively rectangular shaped floor plan and low pitched roof construction. A line of small business units (excluded from the red line of the site) adjoin the southern gable of the filling station. The units which combined cover a similar	

area to the filling station and which run at an angle to the shop comprises a hairdressers, chinese and chip shop.

A large house within the curtilage of the application site sits on lands to the immediate rear of the petrol station which is the subject of this application. This dwelling is currently accessed through the site, to the north side of the filling station. It has however recently gained planning approval to be accessed directly off a residential road to its south.

The area surrounding the site is characterised by its edge of settlement limit location. Residential housing including Ardchrois and Torrent View, two well established housing developments runs to its southeast/east and agricultural lands rise away to its north along the Tullyaran Rd. A large farm cluster sits just northwest of the site, to both sides of the Tullyaran Rd, at its access off the Pomeroy Rd. A public house 'Brewery Off Sales' exists to the opposite side of the Pomeroy Rd to the filling station with the Torrent Valley Business Park to its west again.

### **Description of Proposal**

This is a full application for Retention of domestic store as built (not in accordance with LA09/2021/0259/F) at 20 Ardchrois, Donaghmore.

### **Deferred Consideration:**

This application was presented before the Planning Committee in May 2022 with a recommendation to refuse whereby Members agreed to carry out a site visit and look at the issues of concern on the ground. The site visit took place on 27 May 2022.

A domestic store/garage was approved under LA09/2021/0259/F but it has not been constructed in accordance with the approved drawings. The shed has been constructed in a different position which is closer to neighbouring dwellings. Although the footprint of the building reflects what was approved the shed has been constructed higher than what was approved. Prior to the site visit the agent contacted the Planning Department and advised amended plans will be submitted to show a reduction in the shed, as presently built, to the height which was approved under LA9/2021/0259/F.

The application was refused on the basis of the dominance of the scale, height and massing of the shed as constructed when viewed from the neighbouring properties. I will assess the application based on the reduced height of the shed as now proposed by the agent.

In terms of dominance, the shed was originally approved 4m from the common boundary with the rear of the properties at Torrent View. The shed has been constructed 3m closer to these properties with a separation distance of 1m from the common boundary. I consider that if the shed is reduced in height to what was approved this will mitigate any negative impact in terms of dominance when considering the previous approval. Referring to the refusal reason for scale, height and massing, I do not consider the shed being located 3m closer to the common boundary at the reduced height as a reason to justify a refusal of this application. Planting has been carried out to the rear of the shed with the common boundary and the distance between the shed and the common boundary will allow the applicant to carry out necessary works for the upkeep and general maintenance of the shed.



In terms of overshadowing, it was acknowledged in the report for the shed that was approved under LA90/2021/0184/F there will be a degree of overshadowing and paragraph A33 in APPS does state that overshadowing to a garden area on its own will rarely constitute grounds to justify a refusal reason. I agree with the consideration of overshadowing on this application and do not consider it to be a justifiable reason for refusal as detailed by the case officer in her report.

I recommend an approval of the application subject to the conditions listed below.

**Conditions/Reasons for Refusal:**

**Approval Conditions**

**Condition 1**

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

Reason: This is a retrospective application.

**Condition 2**

Within 3 months from the date of this planning permission the ridge height of the shed shall be reduced to 5.8m as per drawing no 03 Rev 1.

Reason: In the interests of residential amenity of 16, 18 and 20 Torrent View, Donaghmore.

**Condition 3**

The domestic store shall not be occupied at any other time other than for the purposes ancillary to the residential use of the dwelling house known as 20 Ardchrois, Donaghmore.

Reason: In the interests of residential amenity of neighbouring dwellings at 16, 18 and 20 Torrent View, Donaghmore.

**Signature(s):**Karen Doyle

**Date:** 23 January 2023





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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 03/05/2022	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0242/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of domestic store as built (not in accordance with LA09/2021/0259/F)	<b>Location:</b> 20 Ardchrois Donaghmore
<b>Referral Route:</b>  1. Contrary to Policy EXT 1 – Residential Extensions and Alterations in PPS 7 Addendum in that the scale, height and massing of the building is dominant when viewed from the boundary of dwellings to the rear at No. 18, No. 19 and No. 20 Torrent View.	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Conrad McGuigan 20 Ardchrois Donaghmore Co Tyrone	<b>Agent Name and Address:</b> C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b> LA09/2021/0259/F granted approval for a domestic store/garage at the land to the rear and within the curtilage of No. 20 Ardchrois, Donaghmore. This application is for the retention of the building constructed which is larger and not building in the approved location. I consider the scale of the current building is unacceptable and it is now 3m closer to the boundary of dwellings to the rear at No. 18, 19 and 20 Torrent View. I consider the building is now dominant when viewed from these properties especially No.20.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
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### 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 site is within the settlement limit of Donaghmore as defined in the Dungannon and South Tyrone Area Plan 2010.

To the southwest and abutting the boundary of the site contains an operational petrol filling station, a 'Todays Extra' shop and its curtilage which includes hard surfaced forecourt, pumps, canopy, car wash, external customer toilets and ancillary parking. The filling station sits adjacent and fronting unto the Pomeroy Road, to the very north of the village, close to the edge of the settlement limits and just southeast of Backford Bridge.

The curtilage of the filling station is bound along its roadside frontage by a footpath; its rear and south side by low fencing; and its north side by the Torrent River which is lined by a mix of mature vegetation.

The filling station / shop is a single storey building with a relatively rectangular shaped floor plan and low pitched roof construction. A line of small business units (excluded from the red line of the site) adjoin the southern gable of the filling station. The units which combined cover a similar area to the filling station and which run at an angle to the shop comprises a hairdressers, chinese and chip shop.

A large house within the curtilage of the application site sits on lands to the immediate rear of the petrol station which is the subject of this application. This dwelling is currently accessed through the site, to the north side of the filling station. It has however recently gained planning approval to be accessed directly off a residential road to its south.

The area surrounding the site is characterised by its edge of settlement limit location. Residential housing including Ardchrois and Torrent View, two well established housing developments runs to its southeast/east and agricultural lands rise away to its north along the Tullyaran Rd. A large farm cluster sits just northwest of the site, to both sides of the Tullyaran Rd, at its access off the Pomeroy Rd. A public house 'Brewery Off Sales' exists to the opposite side of the Pomeroy Rd to the filling station with the Torrent Valley Business Park to its west again.

### **Description of Proposal**

This is a full application for Retention of domestic store as built (not in accordance with LA09/2021/0259/F) at 20 Ardchrois, Donaghmore.

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

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

### **Representations**

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, 2no. third party objections were received.

Objections were received from the owners of properties at No. 19 and No. 20 Torrent View which submitted the same objection letter and the issues raised in the letter will be assessed and re-butted. Initially both owners of No. 19 and No. 20 state they did not receive a neighbour notification letter for planning approval LA09/2021/0259/F. A letter was sent to both addresses on the 3<sup>rd</sup> March 2021 so I am content the statutory requirements for neighbour notification have been met. The same neighbours as LA09/2021/0259/F were sent neighbour letters for this application and no letters have been received back to myself by Royal Mail.

### **Planning History**

#### Application Site History

LA09/2018/1683/F - Proposed new access - Approx. 30m North East of 21 Pomeroy Road Donaghmore – Permission Granted 25.02.2019

LA09/2021/0259/F - Proposed domestic store/garage - 20 Ardchrois, Donaghmore – Permission Granted 29.04.2021

LA09/2021/0124/CA – The application is the subject of an ongoing enforcement case. The objectors state in their letter that the breach was notified on the 21<sup>st</sup> June 2021 and works

were allowed to progress. This is a separate matter and is considered as part of the enforcement case and cannot be commented on in this assessment.

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

The Mid Ulster District Council Local Development Plan 2030 – Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. 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.

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

As the site is within the settlement limit of Donaghmore SETT 1 is the relevant policy within the Plan. The site is not within any other designation or zonings within the Plan.

I do not consider the building to be retained is sensitive to the size, character and function of the settlement of Donaghmore. The building is larger than the approved height of 5.8m and is only 1m from the boundary with neighbouring dwellings and is not in the approved siting. The scale and height of the building is unacceptable for a domestic building and out of character for the settlement.

The proposal was approved at a separation distance of 4m from the boundary and the applicant was to provide additional landscaping along the boundary. The revised siting does not respect the constraints of the site.

The building to be retained is higher than the 5.8m and is closer to the boundary than approved with neighbouring dwellings at No.18, 19 and 20. The building will be dominant when viewed from their gardens so will create unacceptable neighbour amenity.

The site is not within the vicinity of any recognised conservation interests.

I am content there are satisfactory arrangements for access and parking at the site as it is located on a large plot. The applicant has stated the building is for domestic uses and has not proposed any additional toilets or kitchen so no sewage disposal is needed.

I am content no additional infrastructure is needed by the developer.

I consider the proposal to retain the existing building does not meet all the criteria in SETT 1.

**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.

**Addendum to PPS 7 - Residential Extensions and Alterations:** sets out planning policy and guidance for achieving quality in relation to proposals for residential extensions and alterations.

No conflict arises between the provisions of the Strategic Planning Policy Statement for Northern Ireland - Planning for Sustainable Development - September 2015 (SPPS) and those of retained policies regarding issues relevant to this application. Consequently, the relevant policy context is provided by the Addendum to Planning Policy Statement 7 – Residential Extensions and Alterations (The Addendum). Policy EXT1 of APPS7 indicates that planning permission will be granted for a proposal to extend or alter a residential property where four specific criteria are met.

### **Scale, Massing, Design and Appearance**

The proposal is for the retention of a store/domestic garage on land within the curtilage of No.20 Ardchrois in Donaghmore. A building was approved on the same site through planning approval LA09/2021/0259/F and the proposed garage was 12m in depth and 17.9m in width with a ridge height of 5.8m. In this report it was acknowledged this was a large garage with an industrial appearance but it was considered acceptable in the context of the wider area. The proposed garage was within the curtilage of a large area of land to the rear of No. 20. No. 20 is a three storey dwelling to the south east of the garage which is large in scale and massing. The area to the rear was gravelled and accessed to the rear of Backford filling station in Donaghmore. The site would not become overdeveloped and there was sufficient space left for parking. The approved garage had a separation distance of 4m from the boundary with the dwellings to the rear. In the initial approval additional planting was proposed to the rear to block any negative visual amenity from the garage.

The agent has submitted plans and elevations which match the garage that was approved but this does not match what is currently built on site as shown in figure 1 below.



Figure 1 – Photo from the site visit of shed as built on site.

It appears the garage is higher than the approved 5.8m and has a much higher roller shutter door than what was approved. In terms of scale, height and massing the building currently on site does not have the appearance of a domestic building. At the time of the site visit I was unable to gain access to the inside of the building to check the proposed use. I spoke to the agent on the phone and they confirmed the use was definitely for the applicant's own domestic use.

The objectors at No. 19 and No. 20 state the proposed garage is the equivalent of 10 single garages and twice the height. They contend the proposal is not domestic in scale and is not for a use ancillary to a dwelling. In terms of the domestic use the objectors quote



references from the case officer's report from planning approval LA09/2021/0259/F confirming the building is large in scale and 'would recommend a condition that the building is only used for domestic purposes to limit the use'. The objectors from No. 19 and No. 20 state the description of the proposal as a domestic store/garage is very misleading and a more accurate description would be a two storey shed. The applicant submitted the application for both LA09/2021/0259/F and this application on a PHD from which is for domestic buildings and paid the £291 fee for a domestic building. It is shown on the plans for this application that the building will be used for domestic purposes and it was conditioned in the previous approval for domestic uses. The applicant may intend to use the building for non-domestic uses but at the present moment it is not being used for commercial use so I have to take it on the principle that the building will be domestic.

Overall I consider the scale, height and massing of the building to be retained is unacceptable as it is a higher ridge height than what was currently approved.

### **Neighbour Amenity**

#### **Privacy**

There are no windows on any of sides of the garage so I have no concerns about loss of privacy.

#### **Dominance**

The approved garage was 5.8m in height and as shown in figure 2 below there was a separation distance of 4m in the approved plans. To mitigate against any negative impacts on visual amenity and dominance when viewed from the dwellings to the rear of the garage it was proposed to have additional planting.

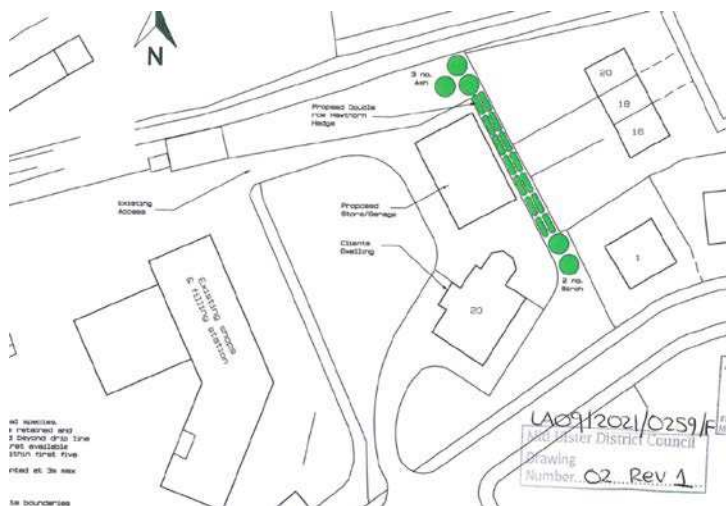


Figure 2 – Snapshot from the approved block plan





Figure 3 – Photo from the site visit showing the separation distance on site.

As shown in figure 3 above the building is sitting at approximately 1m from the boundary with the dwellings to the rear. The dwellings at 18, 19 and 20 Torrent View are also at a slightly lower ground level to the site. In terms of the current location of the building I consider this is unacceptable and is too close to the boundary fence. The building will be a dominant feature when viewed from the rear gardens of the adjacent dwellings.



Figure 4 - Photo from the site visit showing the building has been moved further into the corner of the site.

As shown in figure 4 above the building has been moved into the corner of the site in comparison with the approved siting as shown in figure 1. The building is now completely facing the rear garden of No. 20. The objectors state that proposed landscaping can now not be carried out which I am in agreement with and the applicant's have not met condition 3 of their planning approval.

Condition 3 of planning approval LA09/2021/0259/F stated

“All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 02Rev1 bearing the stamp dated 25 MAR 2021 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 building hereby approved. Any trees or hedging that die within 5 years of planting shall be replaced with a new planting of a similar size and species". The applicant has not completed the conditioned landscaping and will be unable to do this as the building has been moved closer to the boundary fence.

I consider the building in its current location will be a dominant feature when viewed from the rear gardens of No. 18-20 Torrent View as shown below in photographs submitted by the objectors.



Figure 5 – Photos sent in by objectors

### Overshadowing

It was previously stated in the report for LA09/2021/0184/F that the proposed garage would create some overshadowing to the rear gardens of the dwellings at No.18-20. Figure 6 below shows an overshadowing test based on the approved height of the building at 5.8m and it does show overshadowing to the rear garden of No. 20 in the late afternoon. This matches what was previously acknowledged in the assessment in LA09/2021/0184/F. However paragraph A33 in APPS 7 does state that overshadowing to a garden area on its



own will rarely constitute grounds to justify a refusal of permission. This test is based on the height of the garage at 5.8m so there may well be greater overshadowing with the building currently on site. In consider there is the potential for the building on site to create overshadowing to the whole rear garden of No. 20 including the first 3-4m of the rear garden.

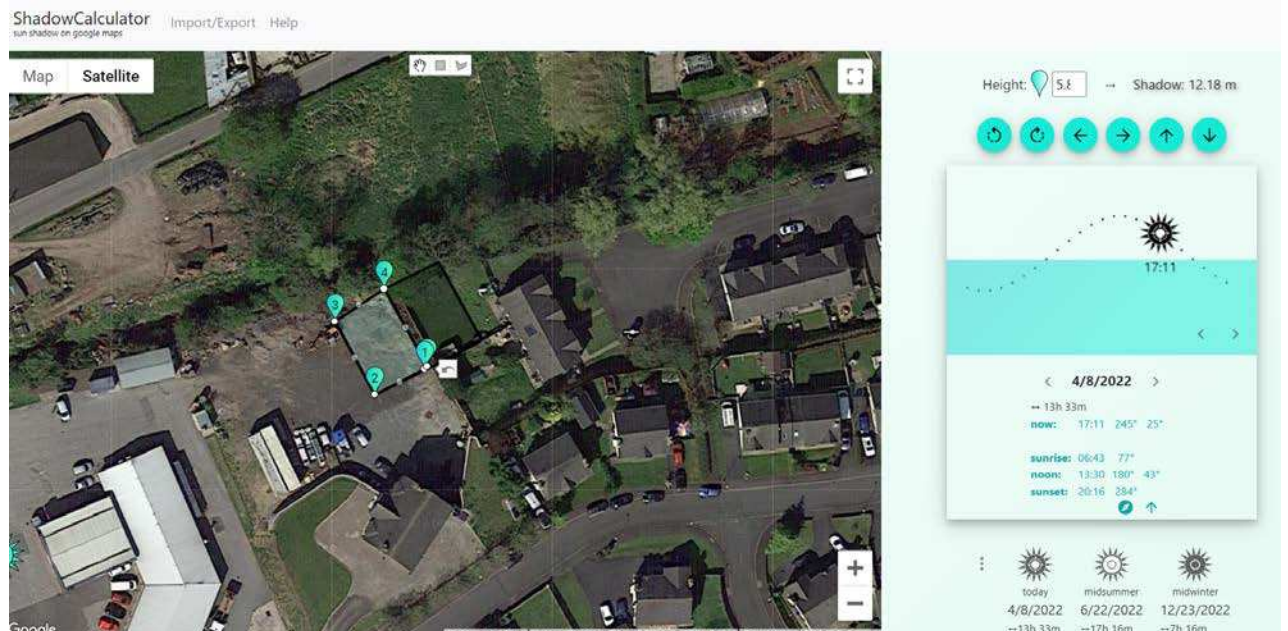


Figure 6 – Overshadowing with building in its current location

Figures 7-8 shows the location of the building and height as currently approved. I have shown the path of the sun at lunchtime and late evening. As stated in the report in the current approval there will be some overshadowing to the rear gardens in the properties at No.18-20 but this was not considered unacceptable as it was not in the main 3-4m of the rear garden space.



Figure 7 – Overshadowing with building in the approved location based on the sun's path for early afternoon

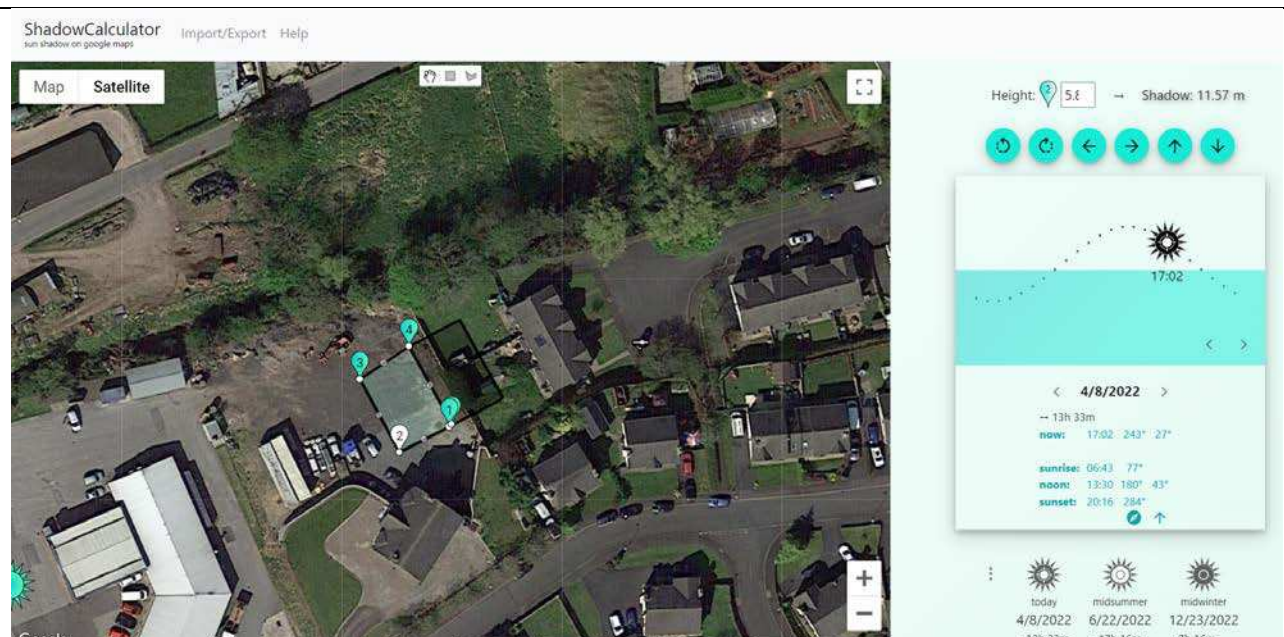


Figure 8 - Overshadowing with building in the approved location based on the sun's path for late afternoon.

The objectors at No. 19 and No. 20 state the shed is located to the southwest boundary of the three dwellings at Torrent View which is the critical side for sunlight. As shown above the garage in its approved location did not create unacceptable overshadowing but as the building is now solely in the corner of the site I am of the opinion it will have an impact on sunlight in the evening for No. 20. But I do not consider the building will create overshadowing and loss of light to any windows at No. 18, 19 and No. 20 Torrent View. Therefore I feel overshadowing cannot be included as a reason for refusal in this application.

### Impact on Trees and Environmental Quality of this Area

There are no trees being removed as part of this proposal. In planning approval LA09/2021/0184/F additional planting of trees and hedging was proposed which would have added to the environmental quality of the proposal but these works have not been completed.

### Amenity Space, Parking and Manoeuvring

The dwelling at No. 20 is located on a large plot and the garage is on land to the rear of the dwelling. I am content there is sufficient amenity space for the dwelling and for the parking of at least two cars.

**Neighbour Notification Checked** Yes

### Summary of Recommendation:

The proposal is recommended for refusal as it does not meet all the criteria in PPS 7 Addendum Residential Extensions and Alterations and SETT 1 in the Dungannon and South Tyrone Area Plan 2010.

**Reasons for Refusal:**

1. Contrary to Policy EXT 1 – Residential Extensions and Alterations in PPS 7 Addendum in that the scale, height and massing of the building is dominant when viewed from the boundary of dwellings to the rear at No. 18, No. 19 and No. 20 Torrent View.

**Signature(s)**

**Date:**



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Retrospective application for the retention of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Summary of Issues:</b>  This application is for the retention of a pre fabricated dwelling on a farm. The development is located in a 1 in 100 year flood plain where the policy is to refuse development unless it is one of the exceptions and a dwelling is not an exception.	
<b>Summary of Consultee Responses:</b> DFI Rivers - development inside 1 in 100 year flood area	
<b>Characteristics of the Site and Area:</b>  The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.  There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63. The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a prefabricated building which is the subject of this application and a shed to the rear.	



**Description of Proposal**

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

**Deferred Consideration:**

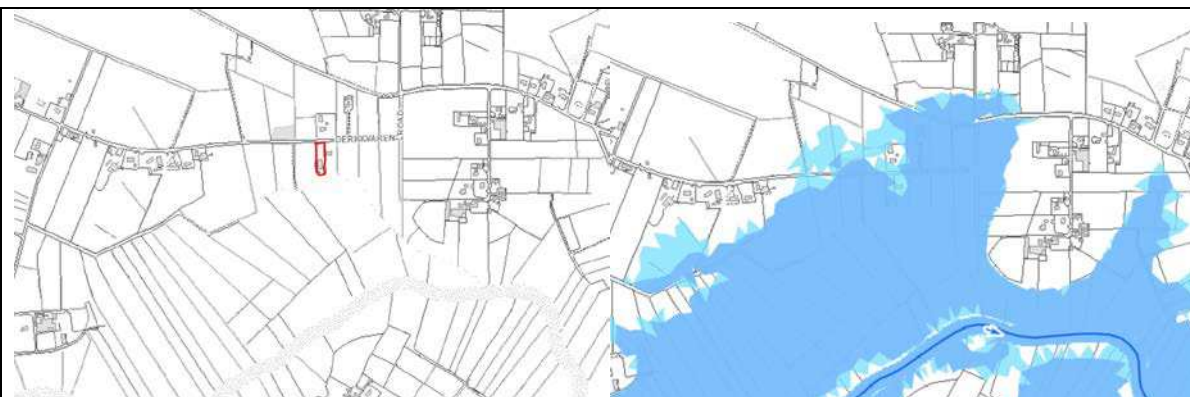
This application was before the Committee on 6 September 2022 with a recommendation to refuse, where it was deferred for meeting with the Service Director. At the deferral meeting on 16 September 2022 it was indicated the proposal is for the applicants farm dwelling and that he had been living in a caravan at the rear of the site. The proposed dwelling is of a temporary nature and the applicant only wants to live in it for a temporary period of 4 or 5 years. The site is within an area the DFI Rivers have advised is a flood plain for a 1 in 100 year flood event, the applicant is an elderly gentlemen and has never seen the site flooding. It would be costly to produce a Flood Risk Assessment and the applicant is unlikely to provide this.

No information has been submitted since the deferral meeting to provide any further information about the applicants farming case or to demonstrate the site sits outside any flood plain. Members are advised there are a number of invoices for buying feed bin, railings and grid supply(possibly cattle grid) from McLaughlin Engineering from 2015 to 2020, invoices for round silage bales from G&C McGahan from 2015 to 2020, receipts from Shane Campbell for hay bales from 2014 to 2020 and details that the farm business id was issued for a cat 3 farm on 16 March 2022. While the recent allocation of a DAERA Business ID gives some indication that farming is currently active, it has not been demonstrated the business has been ongoing for the required 6 years. I agree with the original assessment that some receipts and invoices are on a general template and do not convince me they are contemporaneous for the works carried out..

It is also submitted the applicant is a Lough Neagh Brown Eel fisherman and has licenses issued by DEARA from 2009 until 2021. Members will be aware there is a proposed policy in the Draft Plan Strategy which relates to Lough Neagh fishermen, that said the policy is in draft form and cannot currently be relied on when make decisions on applications.

The proposed dwelling is a prefabricated building and the applicant only wishes to reside here for 4 – 5 years. There is nothing in the policy that would support this proposal with temporary dwellings only permissible for a short period of time (up to 3 years) where a site has planning permission and the development is ongoing in accordance with an approval or there are compelling and site specific reasons to have it here. No new information has been provided to make any additional case for this dwelling on a site specific basis. Members are advised that temporary buildings of this nature are not in keeping with the design guide and they are not particularly appropriate in the countryside.

DFI Rivers Maps show the site within a 1 in 100 year flood event. There are some categories of development which may be permitted in these areas however a dwelling is not one of these categories. The policy does not allow for infilling to raise development out of a flood area as this is moving the problem elsewhere and could result in someone else's property being flooded due to the displacement of flood water. A hydrological report for this area is likely to be a very costly due to the extensive nature of it as it would be modeling the entire Lough Neagh basin.



As there has been no new information presented to justify this proposal and it is in a flood plain I recommend planning permission is refused.

Reasons for Refusal:

Reason 1

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

Reason 2

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

Reason 3

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

Reason 4

Contrary to CTY 14 - Rural Character in PPS 21 in that the design of the dwelling is of a temporary nature and does not reflect the traditional pattern of settlement in the area.

**Signature(s)**

**Date:**



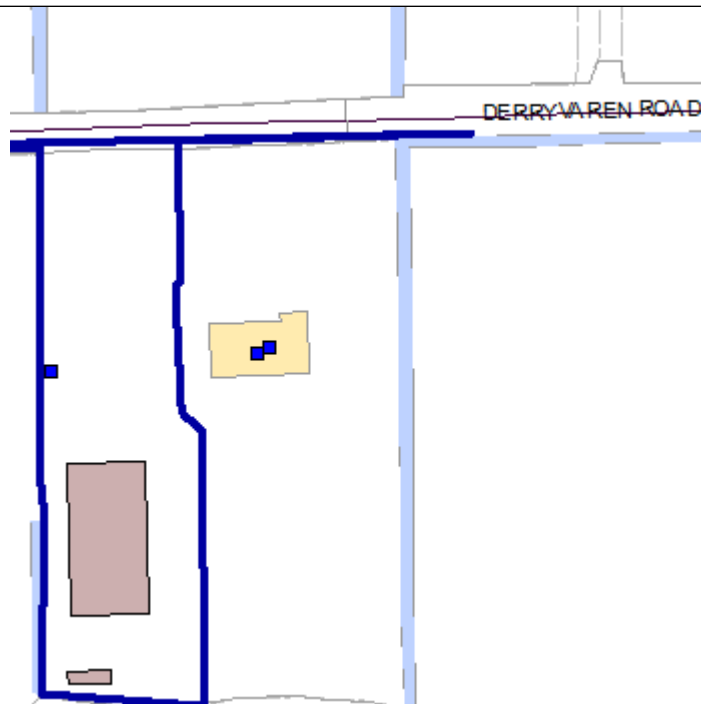


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 September 2022	<b>Item Number:</b> 5.28
<b>Application ID:</b> LA09/2022/0437/F	<b>Target Date:</b> 27 May 2022
<b>Proposal:</b> Retrospective application for the retention of farm dwelling	<b>Location:</b> 59 Derryvaren Road Coalisland
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr James Campbell 59 Derryvarren Road Coalisland BT71 4QP	<b>Agent Name and Address:</b> Cmi Planners Ltd 38B Airfield Road Toomebridge BT413SG
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
	DFI Roads - Enniskillen Office	Substantive: TBC
	DAERA - Omagh	Substantive: TBC
	Rivers Agency	Substantive: TBCResponseType: FR

### Representations:

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

### Summary of Issues

### Characteristics of the Site and Area

The site is in the countryside and outside of any settlement limits in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is semi-rural in character with predominantly agricultural fields, groups of farm buildings and single rural dwellings.

There is a lot of development pressure along Derryvaren Road and adjoining roads from the construction of single dwellings. To the east and directly adjacent to the application site is a modest single storey dwelling at No. 63.

The site has a flat topography and there is no fencing or hedging along the roadside boundary. Along the west and south boundaries there is a row of established trees and hedging along the boundary with No. 63. The sites comprises a mobile home which is the subject of this application and a shed to the rear.

### **Description of Proposal**

This is a full application for retrospective application for the retention of farm dwelling at 59 Derryvaren Road, Coalisland.

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

#### **Policy Consideration**

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

#### **Representations**

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

#### **Planning History**

M/2010/0538/F - Proposed domestic garage - Lands adjacent to 62 Derryvarren Road, Coalisland - Permission Granted 15.04.2011. This is the shed to the rear of the mobile home

Site across the road

M/2008/0554/F – Proposed domestic store for the storage of fisherman's boat car, turf & household utilities - To the rear of 62 Derryvarren Road, Coalisland - Permission Granted – 14.10.2009

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was

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

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

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

**SPPS – Strategic Planning Policy Statement for Northern Ireland:** sets out that The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster’s Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes farm dwelling opportunities. Section 6.77 states that ‘proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety’.

### **Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a Farm**

DAERA have confirmed in their consultation response that the farm business has not been in existence for over 6 years and the farm business is category 3. The DAERA ID was only allocated on the 16<sup>th</sup> March 2022 even-though the applicant states on the P1C form the farm business was established more than 6 years. DAERA state there are no subsidies being claimed at the site by an farm business. The applicant is Mr James Campbell who lives at 59 Derryvaren Road in the mobile home currently on site. The applicant has submitted the following evidence to substantiate claims that the farm business has been active for the past 6 years.

Invoices from SC Groundworks for

1. Ground Maintenance on the 7<sup>th</sup> March 2018

2. Site Clearance on the 12<sup>th</sup> August 2015
3. Installation of septic tank on 7<sup>th</sup> November 2014
4. Installation of pipes on 19<sup>th</sup> October 2020
5. Levelling of stone on the 15<sup>th</sup> February 2020
6. Preparation of ground on the 17<sup>th</sup> July 2020
7. Drain Cleaning on the 11<sup>th</sup> August 2019
8. Installation of sewage pipe on the 25<sup>th</sup> September 2018
9. Laying of concrete on the 14<sup>th</sup> August 2017

Evidence from DAERA for a fishing licence registered to Mr James Campbell from the 3<sup>rd</sup> August 2021 to 31<sup>st</sup> December 2021.

A brown eel fishing permit for James Campbell valid from 1<sup>st</sup> May 2021.

Invoices from MacLaughlin Engineering for

1. A feeding bin on the 1<sup>st</sup> February 2020
2. Railings on the 6<sup>th</sup> April 2018
3. Grid Supply on the 20<sup>th</sup> June 2015

Invoices from Shane Campbell Hay and Straw Sales at 55 Derryvaren Road, Coalisland for

1. 4 Hay Bales on 1<sup>st</sup> December 2017
2. 4 Hay Bales on 7<sup>th</sup> December 2016
3. 4 Hay Bales on 3<sup>rd</sup> December 2015
4. 4 Hay Bales on 5<sup>th</sup> December 2014
5. 4 Hay Bales on 5<sup>th</sup> December 2020
6. 4 Hay Bales on 4<sup>th</sup> December 2019
7. 4 Hay Bales on 3<sup>rd</sup> December 2018

Invoices from G & C McGahan for

1. 2 round bale silage on 3<sup>rd</sup> December 2015
2. 2 round bale silage on 28<sup>th</sup> November 2016
3. 2 round bale silage on 28<sup>th</sup> September 2017
4. 2 round bale silage on 18<sup>th</sup> December 2018
5. 2 round bale silage on 13<sup>th</sup> November 2019

## 6. 2 round bale silage on 22<sup>nd</sup> September 2020

The invoices from Shane Campbell and G & C McGahan which relate to farming activity at the site are a Word format and not a named invoice from a company so it is difficult to ascertain the validity of these receipts. The only land the applicant has shown in blue on the site location plan is one field immediately west of the site. Google maps image from May 2022 appear to show the grass at the field has been cut and maintained. On the basis of the evidence provided I am not content there is an active and established farm business at the site for the past 6 years. The invoices from SC Groundworks relate to the mobile home and do not show that there is active farming at the site.

I completed a check of histories on the fields provided and no sites have been sold off from the farm holding within the past 10 years.

The only building on the site is a shed to the rear of the mobile which was granted approval under M/2010/0538/F as a domestic garage. I completed a check on Spatial NI orthophotography and the shed was on site on the 6<sup>th</sup> July 2013. I am content the shed has been on site for over 5 years and is a building can be used to cluster with. However as there is only one building on site within the farm business I do not consider there is a group of farm buildings to cluster or visually link with.

Overall, I am of the opinion the proposal does not meet the criteria in CTY 10 for a dwelling on a farm.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

There are established trees and mature hedging along the east and west boundaries which will assist in the integration of the building into the landscape.

I have no concerns about the new access as it runs for a short distance through the middle of the site.

The building to be retained is a mobile home which is in not appropriate for a dwelling in the countryside. Mobile homes are normally only allowed on site for a temporary period agreed with the Council pending the construction of a dwelling.

Overall, I consider this dwelling would not integrate into the landscape due to the design of the building.

### **CTY 14 – Rural Character**

I consider the mobile home does not reflect the traditional pattern of settlement in the area. Mobile buildings should only be on land in the countryside for a temporary period and are unacceptable as a rural dwelling. I am of the opinion mobile buildings have an unacceptable impact on rural character and are visually prominent.

### **PPS 3 Access, Movement and Parking**

#### **Policy AMP 2 – Access to Public Roads**

PPS 3 policy AMP 2 outlines that planning permission will only be granted for a development proposal involving direct access onto a public road where; It does not

prejudice public safety or inconvenience traffic. It does not conflict with access to protected routes. In addition, consideration should be given to the nature and scale; character of existing development; contribution to a quality environment and the location and number of existing accesses.

The proposal is to retain new access at the site. DFI Roads were consulted as the statutory authority and responded with no concerns subject to visibility splays of 2.4m x 70m in both directions. I am content the new access will not prejudice road safety.

The site does not access onto a protected route so there are no concerns.

### **PPS 15 – Planning and Flood Risk**

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

Rivers Agency confirmed the application site is within the Q100 flood plain. As the proposal is for a farm dwelling it does not meet the criteria to be considered an exception in FLD 1.

There are no other watercourses abutting the site so consideration of other FLD's in the policy is not necessary.

#### **Other Considerations**

The site is within Lough Neagh and Lough Beg Ramsar Site but due to the distance from Lough Neagh I am content the proposal is sufficiently removed from the Ramsar for there not to be an unacceptable impact on it.

I have completed checks on the statutory ecological and built heritage map viewers and there are no other issues at the site.

#### **Neighbour Notification Checked**

**Yes/No**

#### **Summary of Recommendation:**

Refuse is recommended

#### **Refusal Reasons**

##### **Reason 1**

Contrary to policy FLD 1 - Development in Fluvial (River) and Coastal Flood Plains in PPS 15 - Planning and Flood Risk that the development is located within the Q100 flood plain and is not an exception to policy.

##### **Reason 2**

Contrary to CTY 10 - Dwellings on Farms in PPS 21 - Sustainable Development in the

Countryside in that there is not an active and established farm business for the past 6 years and there is no group of farm buildings to cluster or visually link with.

**Reason 3**

Contrary to CTY 13 - Integration and Design of Buildings in the Countryside in PPS 21 in that the design of the building is inappropriate for the site.

**Reason 4**

Contrary to CTY 14 - Rural Character in PPS 21 in that the development does not reflect the traditional pattern of settlement in the area.

**Signature(s):** Gillian Beattie

**Date:** 17 August 2022



ANNEX	
<b>Date Valid</b>	1 April 2022
<b>Date First Advertised</b>	12 April 2022
<b>Date Last Advertised</b>	12 April 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 63 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 62 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 61 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 64 Derryvaren Road Coalisland Tyrone BT71 4QP The Owner / Occupier 59 Derryvaren Road, Coalisland, Tyrone, BT71 4QP	
<b>Date of Last Neighbour Notification</b>	28 April 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Substantive: TBC DAERA - Omagh-Substantive: TBC Rivers Agency-Substantive: TBCResponseType: FR	

**Drawing Numbers and Title**

Existing Plans      Plan Ref: 03  
Site Layout or Block Plan   Plan Ref: 02  
Site Location Plan   Plan Ref: 01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0645/O	<b>Target Date:</b> 1 September 2022
<b>Proposal:</b> Dwelling and domestic garage(CTY 2A)	<b>Location:</b> 70M North Of 135A Five Mile Straight Maghera
<b>Applicant Name and Address:</b> Patrick McKenna 137 Fivemile Straight Fallagloon Maghera BT46 5JP	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Summary of Issues:</b>  This application went forward to October Planning Committee with a recommendation to refuse under CTY2A and was deferred for an office meeting by Members. It was subject to no third party objection.	
<b>Summary of Consultee Responses:</b>	
<b>Description of Proposal</b>  This is an outline planning application for a site of dwelling house and garage CTY2a.	
<b>Deferred Consideration:</b>  This application for a dwelling in a cluster was deferred for an office meeting by Members at October Planning Committee. The reason for refusal was based on the fact that there was no focal point or cross roads in the cluster. All other CTY2A criteria have been met. At the office meeting there was no disagreement that the cluster was too far removed from any focal points	

and the site clearly wasn't located at a cross roads.

The possibility of obtaining a dwelling under CTY 10 of PPS 21 (Farm Dwellings) was explored. The agent advised that the applicant had no farm buildings and let out his land in conacre and had done so for more than 6 years. He did not have a Farm Business ID but had owned farm lands for more than 6 years. Following the office meeting the applicant has provided further information to substantiate his farm case. A solicitor's letter has been submitted confirming that the applicant has maintained his lands for the past 30 years by way of hedge cutting, fencing etc. It also confirms that the applicant lets his lands out in conacre and collects yearly rents. A signed letter has also been provided by the agricultural contractor who carries out works for the applicant. Whilst this information does prove farming activity for the required period under Policy CTY 10, it remains that the applicant does not have an established farm nor does he have farm buildings to site beside.

Having carried out a site inspection I can advise members that this site does not give rise to any concerns in respect of rural character or integration. It is located down a private laneway and is not subject to any critical views from the public road. It benefits from a mature Southern boundary and semi mature Eastern and Western boundaries and could easily integrate a dwelling with a 6.5m ridge.

It is my consideration that a dwelling on this site would read as part of an existing cluster which has its own visual entity despite not having a focal point. It also has development on 2 sides. There is also a farm case, albeit a weak one in which there is no established farm business or buildings. Furthermore there are clearly no issues with compliance with CTY 13 (Integration) and CTY 14 (Rural Character). There have been no objections from any third party.

On the basis of this consideration I recommend that Members approve this application as an exception to policy. It meets all but 1 of the CTY2A criteria and the applicant has demonstrated that he has an active farm in line with CTY 10 although the remaining CTY 10 criteria are not complied with. A dwelling on this site would not harm rural character and would integrate into the local landscape in line with CTY 13 and CTY 14.

Approval is recommended

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

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

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

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

##### **Condition 2**

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

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

#### Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form, including visibility splays of 2.4m x 90m in each direction and a forward sight distance of 90m prior to commencement of development.

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

#### Condition 4

The proposed dwelling shall have a ridge height of less than 6.5 metres above finished floor level and/or existing ground level.

Reason: To ensure that the development satisfactorily integrates.

#### Condition 5

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

Reason: In the interest of visual amenity

#### Condition 6

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

Reason: To ensure the dwelling integrates into the landform.

#### Condition 7

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

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

**Condition 8**

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

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

**Signature(s):**Karla McKinless

**Date:** 16 January 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 October 2022	<b>Item Number:</b> 5.17
<b>Application ID:</b> LA09/2022/0645/O	<b>Target Date:</b> 1 September 2022
<b>Proposal:</b> Dwelling and domestic garage(CTY 2A)	<b>Location:</b> 70M North Of 135A Five Mile Straight Maghera
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Patrick McKenna 137 Fivemile Straight Fallagloon Maghera BT46 5JP	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

No third party objections

The proposal is contrary to CTY 1 & CTY2A of PPS 21

### Characteristics of the Site and Area

The red line of the site is located down an existing shared access laneway with the site



being located within part of a larger agricultural field. The field itself is bounded on the north east and south by mature existing trees and hedges with the western boundary is defined by a post and wire fence along the laneway with relatively young trees also planted here. The surrounding area is a mix of agricultural lands and dwellings located throughout the immediate area. Views of the site from the public road are limited given how far it is set back from the road and the existing mature trees and hedges around the site.

### **Description of Proposal**

This is an outline planning application for a site of dwelling house and garage CTY2a.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

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

- *The cluster of development lies outside of a farm and consists of four or more*

*buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.*

I am content there is a cluster of development containing dwellings to the east and south of the site including six dwellings identified as 141b, 141a, 143, 135a, 133b, 133a as identified on the site location plan.

- *The cluster appears as a visual entity in the local landscape*

Although the site and surrounding dwellings are well screened by existing mature trees and hedges, the cluster is considered a visual entity in the local landscape when viewed at the site.

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

The agent has identified a fireplace business which is located approximately 400m to the north east of the site. Having viewed this on site I do not believe the cluster is associated with this business, as the cluster is too far removed from this business. The agent also referenced the junction of Fivemile Straight to the Glenshane Road and Glen Road which they claim is reference locally as 'Glen Cross Roads.' I do not consider this junction a cross roads and is located too far away from the site to be associated with the cluster. The agent also referenced a primary school and Church located at this junction, which I also consider too far removed to be considered focal points. Therefore, the proposal fails to comply with this policy.

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

The redline of the application is bounded on two sides with the dwellings 135a, 141a, & 143 Fivemile Straight which bound the site and provides a suitable degree of enclosure.

- *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.*

As mentioned, the site is bounded on at least two sides so the site can be absorbed into the cluster and will not significantly alter its existing character or visually intrude into the open countryside especially given the mature bounding to the site and beyond.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. I am content a dwelling with a ridge height of 7m above finished floor level would be appropriate given the context of the surrounding dwellings and that it would blend with the existing landscape.

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 do not believe a dwelling at this location would erode the rural character of the area as there is a cluster of residential dwellings located within close proximity and a dwelling with a ridge height of 7m would not be a prominent feature in the landscape.

**PPS 3- Access, Movement and Parking:**

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

**Other Material Considerations**

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to 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.

**Reason 2**

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

at a cross-roads.

**Signature(s):** Ciaran Devlin

**Date:** 20 September 2022

<b>ANNEX</b>	
<b>Date Valid</b>	19 May 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 133A Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 135A Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 141A Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 141B Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 135 Five Mile Straight Maghera Londonderry BT46 5JP The Owner / Occupier 137 Five Mile Straight Maghera Londonderry BT46 5JP	
<b>Date of Last Neighbour Notification</b>	28 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: H/2002/0011/O Proposals: Site Of Dwelling Decision: PG Decision Date: 09-DEC-02  Ref: H/1993/0401 Proposals: RETIREMENT BUNGALOW Decision: PG Decision Date:  Ref: H/1993/6063 Proposals: SITE OF RETIREMENT DWELLING ADJ TO 133 FIVE MILE STRAIGHT MAGHERA Decision: QL	

Decision Date:

Ref: H/2002/0381/F

Proposals: Replacement Dwelling.

Decision: PG

Decision Date: 15-JUN-02

Ref: H/2001/1024/O

Proposals: Replacement Dwelling

Decision: PG

Decision Date: 13-APR-02

Ref: H/2001/0131/O

Proposals: Site of Dwelling

Decision: PG

Decision Date: 16-MAR-01

Ref: H/2003/1442/F

Proposals: Proposed replacement dwelling for private residential use.

Decision: PG

Decision Date: 17-AUG-04

Ref: H/1996/0656

Proposals: SITE OF REPLACEMENT DWELLING

Decision: PG

Decision Date:

Ref: H/1988/0359

Proposals: ALTERATIONS AND ADDITIONS TO BUNGALOW AND ATTACHED GARAGE

Decision: PG

Decision Date:

Ref: H/2002/0369/F

Proposals: Site for Dwelling.

Decision: PG

Decision Date: 26-JUL-02

Ref: H/2005/0419/O

Proposals: Site Of One & Half Storey Dwelling & Detached Garage

Decision: PR

Decision Date: 22-AUG-06

Ref: H/2002/0445/F

Proposals: Dwelling & Garage.

Decision: PG

Decision Date: 19-AUG-02

Ref: H/2003/1324/F

Proposals: Relocation and change of garage type with covered area to dwelling.

Decision: PG

Decision Date: 08-MAR-04

Ref: H/2004/0410/O

Proposals: Site of Dwelling and Garage.

Decision:

Decision Date:

Ref: H/2005/1050/RM

Proposals: Single Storey Dwelling

Decision: PG

Decision Date: 10-MAY-06

Ref: H/2002/0023/O

Proposals: Site of Dwelling & Garage

Decision:

Decision Date:

Ref: H/2005/0333/F

Proposals: Bungalow and Garage

Decision: PG

Decision Date: 13-FEB-06

Ref: H/1992/6105

Proposals: SITE OF DWELLING 131-137 FIVEMILE STRAIGHT ROAD MAGHERA

Decision: QL

Decision Date:

Ref: LA09/2022/0645/O

Proposals: Dwelling and domestic garage(CTY 2A)

Decision:

Decision Date:

Ref: H/2013/0475/F

Proposals: Proposed farmhouse dwelling and garage

Decision: PG

Decision Date: 30-APR-14

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

<b>Drawing Numbers and Title</b> Site Location Plan   Plan Ref: 01
<b>Notification to Department (if relevant)</b> Not Applicable





## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0662/O	<b>Target Date:</b> 6 September 2022
<b>Proposal:</b> Dwelling and domestic garage	<b>Location:</b> 95M SW Of 6 Moss Road Coagh, Cookstown
<b>Applicant Name and Address:</b> Ryan McGuckin 6 Moss Road, Coagh, Cookstown, BT80 0BZ	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  The application went forward to December 2022 Planning Committee with a recommendation to refuse under CTY 1 and CTY 2A of PPS21, as the cluster was not associated with a focal point or was located at a cross roads.	
<b>Summary of Consultee Responses:</b>  DFI Roads and NIW have been consulted and have no objections to the proposal	
<b>Description of Proposal</b>  This is an outline application for a proposed dwelling and garage, the site is located 95m SW of 6 Moss Road, Coagh.	
<b>Deferred Consideration:</b>  This application for a dwelling and garage was previously assessed under policy CTY2A of PPS 21 (Dwelling in a cluster). It was recommended for refusal at December 2022 Planning Committee as it was deemed the cluster was not associated with a focal point nor was it located	

at a cross roads. Members agreed to defer the application so that an office meeting could be facilitated. At the office meeting it was agreed that a site visit be carried out to help inform this deferred consideration.

Following a site inspection I can confirm to members that the site is too far removed from any focal point and the cross roads and so cannot be considered to comply with Policy CTY2A of PPS 21. All other CTY2A criteria are complied with. The site is located within and rounds off its own small cluster of development along the Moss Road - which Members should note, is a rural road that experiences a very high development pressure and is characterised by numerous small and medium sized clusters of dwellings and other buildings. The site is bound on 2 sides by development and has its own visual entity despite not having a focal point.

I have also considered the site in the context of policy CTY8 of PPS21, which allows for the development of a small gap site along a substantial and built up road frontage. Having carried out a site inspection I would advise that it is questionable whether the gap would take a maximum of 2 dwellings, based on the average plot sizes along this part of the Moss Road. However it is important to advise that when travelling either direction along this road this gap does not provide any relief or visual break in the developed appearance of the immediate area. It is also acknowledged that if a dwelling were to be approved here it would create a ribbon of 3 dwellings along this particular section of the Moss Road. As I alluded to earlier, Moss Road is a rural road which has experienced a high level of build up over the years and as a result, has lost all rural character. Another dwelling will not further erode rural character as it is already gone.

On the basis of my assessment, taking into account the particular characteristics of this area, I recommend that Members approve this application as an exception to policy CTY 8 of PPS21. The gap in question does not provide a visual break in this area, which is eroded of rural character and is characterised by ribbons of development.

Approval is recommended.

### **Conditions/Reasons for Refusal:**

#### **Approval Conditions**

##### **Condition 1**

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

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

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

##### **Condition 2**

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

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

Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form, including visibility splay of 2.4m x 60m in each direction and a forward sight distance of 60m prior to commencement of development.

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

Condition 4

The proposed dwelling shall have a ridge height of no more than 5.5 metres above finished floor level.

Reason: To ensure that the development satisfactorily integrates and is not overly prominent on this roadside site.

Condition 5

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

Reason: In the interest of visual amenity

Condition 6

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

Reason: To ensure the dwelling integrate into the landform

Condition 7

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

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

**Signature(s):**Karla McKinless

**Date:** 23 January 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 6 December 2022	<b>Item Number:</b> 5.22
<b>Application ID:</b> LA09/2022/0662/O	<b>Target Date:</b> 6 September 2022
<b>Proposal:</b> Dwelling and domestic garage	<b>Location:</b> 95M SW Of 6 Moss Road Coagh, Cookstown
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Ryan McGuckin 6 Moss Road, Coagh, Cookstown, BT80 0BZ	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>  Refusal	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx
Non Statutory Consultee	NI Water - Single Units West	LA09-2022-0662-O.pdf

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 2a.

### Characteristics of the Site and Area

The site is located approximately 0.2km south west of the development limits of Ballinderry, as

such the site is located within the open countryside as per defined by the Cookstown Area Plan 2010. The site has been identified as 95m South West of 6 Moss Road, Coagh as such the sits along the roadside just a short distance from the settlement of Ballinderry. I note that the red line covers a portion of a much larger agricultural field that sits along the roadside. The immediate and surrounding area is predominately agricultural land uses with a scattering of dwellings.

#### Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

### Description of Proposal

This is an outline application for a proposed dwelling and garage, the site is located 95m SW of 6 Moss Road, Coagh.

### Planning Assessment of Policy and Other Material Considerations

#### Policy Consideration

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

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open

countryside; and

- Development would not adversely impact on residential amenity.

I am content that the cluster lies outside and consists of four or more buildings, in which three of these are dwellings (Nos. 8, 8a, 7, 9, 9a Moss Road). In which I am content that the cluster appears as a visual entity.

The agent has stated that the focal point identified in this application is the Evergreen Social Club however upon review of the site I hold the opinion that the social club is too far detached from the cluster to be considered to be associated. With this in mind I hold the view that the application has failed to demonstrate that there is an associated focal point. This point was passed to the agent who stated that was another focal point in the way of 'D Zine'. I have shown the site (in red) and this business (in blue) in the below for comparison.



I hold the view that 'D Zine' does not have any association with the site nor the cluster of development it sits within. More that the site sits in a separate cluster of development from this business as shown below.





With this in mind I hold the view that the cluster is not associated with an identified focal point.

In terms of enclosure I note the site bounds with No. 8a Moss Road along the western boundary, and would bound with No. 7 Moss Road with the intervening road in between which has been already accepted within MUDC. I am content that there is suitable enclosure as a result and is able to round off the cluster effectively. I note that this is quite a rural area with quite a few houses in which I am content that a dwelling in this position would not significantly alter the existing character of the area nor visually intrude into the site. Finally, in this position I am content that an appropriately designed dwelling will not have an adverse impact on neighbouring amenity. Given the issue over the focal point I hold the view that the application has not fully complied under CTY 2a.

I hold the view that the application has failed to demonstrate compliance under CTY2a. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

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 an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 6.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental

impact on the character of the area and would be able to comply under CTY 14.

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.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

A consultation was sent to NI Water who confirmed they had no objections.

I have no flooding, ecological or residential amenity concerns.

I hold the view that the application has not fully complied under CTY 1 and 2a respectively, as such I must recommend refusal.

### **Summary of Recommendation:**

Refuse is recommended

Refusal

### **Refusal Reasons**

#### **Reason 1**

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

#### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site associated with a focal point or is it located at a cross-roads.

**Signature(s):** Peter Henry

**Date:** 7 November 2022

ANNEX	
Date Valid	24 May 2022
Date First Advertised	28 June 2022
Date Last Advertised	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 7 Moss Road Ardboe Cookstown Tyrone BT80 0BZ The Owner / Occupier 9 Moss Road Ardboe Cookstown Tyrone BT80 0BZ The Owner / Occupier 8 Moss Road Ardboe Cookstown Tyrone BT80 0BZ The Owner / Occupier 8A Moss Road Cookstown Tyrone BT80 0BZ	
Date of Last Neighbour Notification	28 June 2022
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: I/1997/0108 Type: O Status: PCO  Ref: I/2005/0175/O Type: O Status: PR  Ref: LA09/2020/0278/F Type: F Status: PG  Ref: I/2005/0176/O Type: O Status: APPRET  Ref: LA09/2022/0662/O Type: O	

Status: PCO

Ref: I/1994/0293B

Type: RM

Status: PCO

Ref: I/2015/0049/O

Type: O

Status: PG

Ref: I/2001/0148/O

Type: O

Status: APPRET

Ref: I/1975/0264

Type: H13

Status: PG

Ref: I/1976/0205

Type: H13

Status: PG

Ref: I/2014/0095/F

Type: F

Status: PG

Ref: I/2000/0102/RO

Type: RM

Status: PG

Ref: I/1999/0469/O

Type: O

Status: PG

Ref: LA09/2021/0707/O

Type: O

Status: PG

Ref: I/2007/0833/O

Type: O

Status: PR

Ref: I/1994/0293

Type: O

Status: PCO

Ref: I/1980/0190

Type: H13

Status: PG

Ref: I/1996/0256

Type: F

Status: PCO

Ref: I/1983/0066

Type: H13

Status: PG

Ref: I/1983/006601

Type: H13

Status: PG

### **Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

NI Water - Single Units West-LA09-2022-0662-O.pdf

### **Drawing Numbers and Title**

Site Location Plan Plan Ref: 01

### **Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0685/O	<b>Target Date:</b> 9 September 2022
<b>Proposal:</b> Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	<b>Location:</b> To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
<b>Applicant Name and Address:</b> Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
<b>Summary of Issues:</b>  This application was presented to Members at October 2022 Planning Committee with a recommendation to refuse under CTY2A. It was deferred for an office meeting and was presented to Members again as a CTY2A refusal at December Planning Committee. It was then agreed to defer the application so that Members could participate in a site visit.	
<b>Summary of Consultee Responses:</b>  No consultations have been carried out to inform this deferred consideration. During the processing of the application consultations were carried out with DFI Roads, who have offered no objection to the proposal.	
<b>Description of Proposal</b>  This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.	

### **Deferred Consideration:**

This application for a dwelling in a cluster was recommended for Refusal at both October 2022 and December 2022 Planning Committees as the site failed to comply with Policy CTY2A in that it was not bound on at least 2 sides by development in the cluster. At December Committee it was agreed a site visit with members, the Senior Planner and the Head of Local Planning be facilitated and this took place on the 20th December 2022.

The application is being considered in the context of Policy CTY2A of PPS 21. The cluster lies outside a farm, it consists of four or more buildings of which at least three are dwellings, it appears as a visual entity and is associated with a focal point, a filling station and community hub - shop. There will be no adverse impact on residential amenity. The proposed site is positioned so that it rounds off the cluster and if a dwelling were approved here, if appropriately conditioned in terms of siting, it would not significantly alter its existing character or visually intrude into the open countryside.

However, although the site will provide a suitable degree of enclosure, it is not bounded on at least two sides with other development in the cluster. The SW of the site is bounded by a dwelling and ancillary outbuildings. The SE and NE boundaries are void of development. The NW boundary is bounded by a plantation of conifers. It was noted on the day of the site visit with Members that these conifers appear to be getting felled for commercial purposes and there was evidence of large logs being stacked in an area to the West of the site. Members are advised that there are no Planning Appeals Decisions that I can find that have considered commercial forestry works as development for the purposes of policy CTY2A for me to hold any determining weight to this fact.

Policy CTY2A requires an application for a dwelling at an existing cluster to meet all of the criteria listed in PPS 21. Given the application site is not bounded on at least two side with other development in the cluster this application does not meet policy CTY2A. However, it is my opinion that this application can be treated as an exception to policy since the application is considered to meet five of the six listed criteria and is therefore very much within the spirit of the policy. Although the site is not bounded on two sides, there is a commercial operation on one side and acceptable development on another side. On account of this, i do not consider a dwelling here will result in an erosion of rural character. If appropriately sited with a limited domestic curtilage it will provide a natural rounding off to the cluster of development associated with the focal point.

It is my recommendation to approve this application subject to the conditions listed below.

### **Conditions/Reasons for Refusal:**

#### **Approval Condtions**

Condition 1

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

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

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

#### Condition 2

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

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

#### Condition 3

A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the RS1 Form, including visibility splay of 2.4m x 120m in each direction and a forward sight distance of 120m prior to commencement of development.

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

#### Condition 4

The proposed dwelling shall have a ridge height of no more than 6.5 metres above finished floor level.

Reason: To ensure that the development satisfactorily integrates and is not overly prominent on this site.

#### Condition 5

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

Reason: In the interest of visual amenity

#### Condition 6

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

Reason: To ensure the dwelling integrate into the landform

#### Condition 7

No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first



planting season after the commencement of the development. Trees or shrubs dying, removed or becoming seriously damaged within five years of being planted shall be replaced in the next planting season with others of a similar size and species unless the Council gives written consent to any variation. -

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

**Condition 8**

The proposed dwelling shall be sited in the area shaded green on drawing number 01 date stamped 27th May 2022

Reason: To ensure that the development is satisfactorily integrated and does not intrude into the local landscape in accordance with the requirements of Planning Policy Statement 21

**Condition 9**

The curtilage of the proposed dwelling shall be as indicated in orange on the drawing number 01 date stamped 27th May 2022

Reason: To ensure that the development does not visually intrude into the local landscape

**Signature(s):**Karla McKinless

**Date:** 24 January 2023



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/0685/O	<b>Target Date:</b> 9 September 2022
<b>Proposal:</b> Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	<b>Location:</b> To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
<b>Applicant Name and Address:</b> Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
<b>Summary of Issues:</b>  This application was presented to Members at October Planning Committee with a recommendation to refuse as it was considered that the proposed dwelling did not meet all the criteria to be considered a dwelling in a cluster, namely that the site is not bounded on at least 2 sides with other development in the cluster and it did not provide a suitable degree of enclosure.	
<b>Summary of Consultee Responses:</b>  No consultations have been carried out to inform this deferred consideration. During the processing of the application consultations were carried out with DFI Roads, who have offered no objection to the proposal.	
<b>Description of Proposal</b>  This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.	

**Deferred Consideration:**

At October Planning Committee Members agreed to a defer this application for an office meeting. At the office meeting the agent, Mr Paddy Conlon made a case that this site would satisfactorily integrate a dwelling and he explained how the applicant had been left the land as part of a settlement. The agent was advised that integration was not the only policy test. The CTY 2A policy test required the site to be bound on at least 2 sides by development and it remained the case that this site was only bound on 1 side, the SW, by development. The agent was asked to explore whether the applicant would be able to provide farm details so that a farm dwelling could be considered. I have subsequently been advised by the agent that a farm case can not be made.

The agent has also referenced a CTY 2A case (LA09/2020/1349/O) which members agreed to approve as an exception to policy and has asked if consideration can be given to the precedence set by this case. Having reviewed LA09/2020/1349/O it is apparent that this site was not bound on 2 sides by development, however, it was clearly more representative of the rounding off of a cluster of development in the Countryside than the application under consideration.

On re-consideration I would recommend this application be refused.

**Conditions/Reasons for Refusal:****Refusal Reasons****Reason 1**

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

**Reason 2**

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

**Signature(s):**Karla McKinless

**Date:** 22 November 2022



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 October 2022	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2022/0685/O	<b>Target Date:</b> 9 September 2022
<b>Proposal:</b> Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	<b>Location:</b> To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
<b>Executive Summary:</b>  Refusal	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 2a.

### Characteristics of the Site and Area

The site is located approximately 1.8m south east of the developments of Coagh, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as to the rear of No. 68 Drumconvis Road, Coagh wherein the red line covers a portion

of a much larger agricultural field with the proposed access running along the eastern boundary of the field. I note that along the western boundary sits a backdrop of mature trees. The surrounding area is a mixture of agricultural lands and residential dwellings with the a rural petrol station nearby.

#### Relevant planning history

LA09/2021/0080/O - Detached house under policy CTY2A new dwellings in existing clusters - 20M North Of 66 Drumconvis Road Cookstown – Permission Granted – 11/06/21

#### Representations

Only one Neighbour notification was sent out however no representations received in connection with this application.

### **Description of Proposal**

This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.

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

#### **Policy Consideration**

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 – Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

I am content that the cluster lies outside and consists of four or more buildings, in which three of these are dwellings (Nos. 66, 66a and 68 Drumconvis Road). In which there is an existing filling station and community hub-shop to the west of application site to act as a focal point and the cluster appears as a visual entity as per accepted in LA09/2021/0080/O.

In terms of enclosure I note that the site only bounds with No.68 along the southern boundary of the site but does not bound with any other development on any other boundaries, contrary to policy. However given the backdrop provided by the mature trees to the rear and side of the site I am content that a dwelling in this position would not significantly alter the existing character of the area nor visually intrude into the site. Finally, in this position I am content that an appropriately designed dwelling will not have an adverse impact on neighbouring amenity. Given the issue over the bounding I hold the view that the application has not fully complied under CTY 2a.

I hold the view that the application has failed to demonstrate compliance under CTY2a. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

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 an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration as shown in the concept plan therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 7.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

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.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

I hold the view that the application has not fully complied under CTY 1 and 2a respectively, as such I must recommend refusal.

**Summary of Recommendation:**

Refuse is recommended

Refusal

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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

**Signature(s):** Peter Henry

**Date:** 20 September 2022



<b>ANNEX</b>	
<b>Date Valid</b>	27 May 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 68 Drumconvis Road Coagh Tyrone BT80 0HF	
<b>Date of Last Neighbour Notification</b>	27 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>	
DFI Roads - Enniskillen Office-	
<b>Drawing Numbers and Title</b>	
Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	
<b>Notification to Department (if relevant)</b>	
Not Applicable	



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 October 2022	<b>Item Number:</b> 5.18
<b>Application ID:</b> LA09/2022/0685/O	<b>Target Date:</b> 9 September 2022
<b>Proposal:</b> Proposed 2 storey dwelling and garage at an existing cluster an focal point under CTY 2a of PPS 21	<b>Location:</b> To Rear Of No 68 Drumconvis Road Coagh BT80 0HF
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Frances Harkness 43 Battery Road, Coagh, Cookstown, BT80 0HH	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
<b>Executive Summary:</b>  Refusal	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	

### Representations:

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

### Summary of Issues

To Committee – Refusal – Contrary to CTY 1 and 2a.

### Characteristics of the Site and Area

The site is located approximately 1.8m south east of the developments of Coagh, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site is identified as to the rear of No. 68 Drumconvis Road, Coagh wherein the red line covers a portion

of a much larger agricultural field with the proposed access running along the eastern boundary of the field. I note that along the western boundary sits a backdrop of mature trees. The surrounding area is a mixture of agricultural lands and residential dwellings with the a rural petrol station nearby.

#### Relevant planning history

LA09/2021/0080/O - Detached house under policy CTY2A new dwellings in existing clusters - 20M North Of 66 Drumconvis Road Cookstown – Permission Granted – 11/06/21

#### Representations

Only one Neighbour notification was sent out however no representations received in connection with this application.

### **Description of Proposal**

This is an outline application for a proposed 2 storey dwelling and garage at an existing cluster a focal point under CTY 2a of PPS 21, the site is located To Rear of No 68 Drumconvis Road, Coagh.

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

#### **Policy Consideration**

Cookstown Area Plan 2010

Mid Ulster Local Development Plan 2030 – Draft Strategy

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3 - Access, Movement and Parking;

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes infill opportunities. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,

- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

I am content that the cluster lies outside and consists of four or more buildings, in which three of these are dwellings (Nos. 66, 66a and 68 Drumconvis Road). In which there is an existing filling station and community hub-shop to the west of application site to act as a focal point and the cluster appears as a visual entity as per accepted in LA09/2021/0080/O.

In terms of enclosure I note that the site only bounds with No.68 along the southern boundary of the site but does not bound with any other development on any other boundaries, contrary to policy. However given the backdrop provided by the mature trees to the rear and side of the site I am content that a dwelling in this position would not significantly alter the existing character of the area nor visually intrude into the site. Finally, in this position I am content that an appropriately designed dwelling will not have an adverse impact on neighbouring amenity. Given the issue over the bounding I hold the view that the application has not fully complied under CTY 2a.

I hold the view that the application has failed to demonstrate compliance under CTY2a. I note that I have considered the other policies under CTY 1 and hold the view that none of these are applicable to this site and must recommend refusal under CTY 1 respectively.

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 an appropriately designed dwelling would not appear prominent in the landscape and would be able to successfully integrate into the landscape. Additional landscaping will be required to aid integration as shown in the concept plan therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 7.5m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that an appropriately designed dwelling will not have a detrimental impact on the character of the area and would be able to comply under CTY 14.

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.

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

I have no flooding, ecological or residential amenity concerns.

I hold the view that the application has not fully complied under CTY 1 and 2a respectively, as such I must recommend refusal.

**Summary of Recommendation:**

Refuse is recommended

Refusal

**Refusal Reasons**

**Reason 1**

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

**Reason 2**

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

**Signature(s):** Peter Henry

**Date:** 20 September 2022

<b>ANNEX</b>	
<b>Date Valid</b>	27 May 2022
<b>Date First Advertised</b>	28 June 2022
<b>Date Last Advertised</b>	28 June 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier 68 Drumconvis Road Coagh Tyrone BT80 0HF	
<b>Date of Last Neighbour Notification</b>	27 June 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-	
<b>Drawing Numbers and Title</b>  Site Location Plan Plan Ref: 01 Site Layout or Block Plan Plan Ref: 02	
<b>Notification to Department (if relevant)</b>  Not Applicable	



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1226/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage	<b>Location:</b> 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
<b>Summary of Consultee Responses:</b>  DFI Roads consulted and have no objections to the proposal.	
<b>Description of Proposal</b>  This is outline planning application for a proposed site for a dwelling and domestic garage.	
<b>Deferred Consideration:</b>  This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	



was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1230/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1230/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

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

##### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Reason 4**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

**Signature(s):**Karla McKinless

**Date:** 23 January 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.20
<b>Application ID:</b> LA09/2022/1226/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage	<b>Location:</b> 100M South Of No. 25A Cloane Road Draperstown BT45 7EJ At The Junction Of Cloane Road And Cloane Lane
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to policy.

### Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the northern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is defined by a post and wire fence. The site is located adjacent to the crossroads of Cloane Lane to the north and Cloane Road to the west. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

### **Representations**

No third party representations have been received.

### **Relevant Site History**

LA09/2022/1230/O- Proposed Site for Dwelling and Domestic Garage. 155m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

### **Description of Proposal**

This is outline planning application for a proposed site for a dwelling and domestic garage.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable

Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

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

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

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above policy criteria, there is no existing cluster as per the policy definition so it fails to meet the above policy. It is noted that the site is located adjacent to a cross roads.

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

The site is not bounded by development on any sides. The agent has identified plot three directly adjacent to the north (separated by the Cloane Lane) but this plot adjacent the site is an agricultural field.

- *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.*

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

#### PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

#### **Other Material Considerations**

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons****Reason 1**

The proposal is contrary to 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.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Signature(s):** Ciaran Devlin

**Date:** 17 October 2022



ANNEX	
Date Valid	4 August 2022
Date First Advertised	16 August 2022
Date Last Advertised	16 August 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21  Ref: H/2003/1190/O Proposals: Site of one and a half storey dwelling and garage. Decision: PG Decision Date: 07-DEC-04  Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date:  Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	

**Summary of Consultee Responses**

DFI Roads - Enniskillen Office-Outline resp.docx

**Drawing Numbers and Title**

Site Location Plan Plan Ref: L01

**Notification to Department (if relevant)**

Not Applicable



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karla McKinless	
<b>Application ID:</b> LA09/2022/1230/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage.	<b>Location:</b> 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Summary of Issues:</b>  This application was presented as a refusal at November 2022 Planning Committee as it failed to comply with Policy CTY2A of PPS 21. There were also concerns raised in respect of CTY 14 of PPS21.	
<b>Summary of Consultee Responses:</b>  DFI Roads consulted and have no objections to the proposal.	
<b>Description of Proposal</b>  This is an outline planning application for a proposed site for a dwelling & domestic garage.	
<b>Deferred Consideration:</b>  This application for a dwelling and garage was initially assessed under Policy CTY2a of PPS 21 (Dwelling in a Cluster). It was recommended for refusal at November Planning Committee as it	

was deemed there was no existing cluster at this location, it lacked enclosure, it wasn't bounded on 2 sides by development and a dwelling here would not be absorbed into an existing cluster. It was also felt that a dwelling on this site would erode rural character. Members agreed to defer this application and an associated adjacent application for a dwelling (LA09/2022/1226/O) so that an office meeting could be facilitated.

At the office meeting the agent made a case for compliance with CTY2a and suggested that a plot of land to immediate North of the site was not an agricultural field but was part of the private amenity space for number 25a Cloane Road. It was also suggested by the agent that the site could be considered as an infill opportunity under policy CTY 8 of PPS 21.

Having carried out a site inspection I would agree with the case officers initial assessment under CTY2a. The existing development at this location does not appear as a visual entity in the landscape. The dwelling to the South, number 28 Cloane Road, is too far removed from the 2 dwellings and farm buildings at 25 and 25a. There is clearly no cluster of development around this crossroads. Only one section is developed (the NE) and as such the site is not being bound on 2 sides by development. In my opinion it remains the case that a dwelling on this site fails to meet CTY2a.

I also considered the site and the adjacent application (LA09/2022/1226/O) under Policy CTY8. The agent made a case that the plot to the North of the site was not an agricultural field. Having viewed this on the ground I do not agree. It is clearly not a garden area (despite housing a trampoline) within the domestic curtilage of number 25a and so should be considered as part of the gap between number 25a and number 28. The gap in my opinion creates a substantial visual break and would accommodate more than 2 dwellings. Furthermore, if both applications were approved then a ribbon of development would be created along this section of the Cloane Road. As such this proposal is considered to fail the tests of Policy CTY 8 of PPS 21.

Having been on the ground I can advise members that there is a real appreciation of rural character in this area. There is a very low development pressure and it is characterised by agricultural fields, mature trees and thick shrub/semi mature trees, with only sporadic dwellings and farm buildings. If this application and the adjacent application were accepted as infill development the rural character of this immediate area would very much be eroded. Policy CTY 14 exists to protect such areas and it is my opinion that this proposal is contrary to this policy.

Refusal is recommended under SPPS, CTY 1, CTY2a (Dwelling in Cluster), CTY8 (Infill) and CTY 14 (Rural Character)

### **Conditions/Reasons for Refusal:**

#### **Refusal Reasons**

##### **Reason 1**

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

##### **Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable

Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Reason 4**

The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of a ribbon of development along the Cloane Road.

**Signature(s):**Karla McKinless

**Date:** 23 January 2023



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 1 November 2022	<b>Item Number:</b> 5.21
<b>Application ID:</b> LA09/2022/1230/O	<b>Target Date:</b> 17 November 2022
<b>Proposal:</b> Proposed Site for Dwelling and Domestic Garage.	<b>Location:</b> 155M South Of No.25a Cloane Road Draperstown BT45 7EJ
<b>Referral Route:</b> Refuse is recommended	
<b>Recommendation:</b> Refuse	
<b>Applicant Name and Address:</b> Mr Mark Quinn 1 The Brambles Station Road Magherafelt BT45 5RY	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	

## Case Officer Report

### Site Location Plan



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### Consultations:

Consultation Type	Consultee	Response
Statutory Consultee	DFI Roads - Enniskillen Office	Outline resp.docx

### Representations:

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

### Summary of Issues

The proposal is contrary to policy.

### Characteristics of the Site and Area

The site is located approximately 2km North of the development limits of Draperstown and is located within the open countryside outside any other designations as per the Magherafelt Area Plan 2015. The red line of the site is the southern corner of an existing

larger agricultural field which is relatively flat in nature with shrubs and grass within the field. The eastern boundary is defined by mature trees, with a mature hedge row defining the roadside boundary. The northern boundary is currently undefined with a laneway running adjacent to the southern boundary separating the application site from a dwelling under construction to the south. The surrounding area is mainly agricultural in nature with single dwellings located throughout.

### **Representations**

No third party representations have been received.

### **Relevant Site History**

LA09/2022/1226/O- Proposed Site for Dwelling and Domestic Garage. 100m South of No.25A Cloane Road, Draperstown. Pending Consideration

LA09/2020/0970/O- Dwelling and garage. Approx. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 5th May 2021

LA09/2021/1532/RM- Dwelling and domestic garage. 250M South Of 25 Cloane Road, Draperstown. Permission Granted 25th January 2022.

### **Description of Proposal**

This is an outline planning application for a proposed site for a dwelling & domestic garage.

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

#### **Policy Consideration**

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
PPS 21: Sustainable Development in the Countryside  
PPS 3: Access, Movement and Parking

The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Development in the countryside is controlled under the provisions of PPS 21 Sustainable



Development in the countryside.

Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.

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

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

I do not believe there is a cluster of development which lies outside of a farm. The agent has shown on the site location plan they believe there are three plots to the north of the site which are shown as No.25 and an associated outbuilding, No.25a and an associated outbuilding and then plot 3 which appears to be an agricultural field and farm buildings to the north of this. However, having viewed these on the ground and reviewed ortho images it is clear the buildings in plot 3 are farm buildings with another farm building to the north of these at the rear of No.25 as seen in the image below. From this, there is no cluster as there are only three buildings identified as the outbuildings and garages have to be excluded.

- *The cluster appears as a visual entity in the local landscape*
- *The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.*

With regards the above two points, there is no existing cluster as per the policy so it fails to meet the above policy. It is noted that the site is located south of a cross roads.

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

The site is bounded on the southern side by a dwelling currently under construction approved under applications LA09/2020/0970/O & LA09/2021/1532/RM. The site is not bounded on any other sides by development.

- *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.*

As mentioned, the site is not bounded on at least two sides and there is not an existing cluster.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape given the mature tree boundaries which would provide a backdrop.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would result in the erosion of the rural character of the area.

**PPS 3- Access, Movement and Parking:**

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

**Other Material Considerations**

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

**Summary of Recommendation:**

Refuse is recommended

**Refusal Reasons**

**Reason 1**

The proposal is contrary to 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.

**Reason 2**

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is not an existing cluster of development at this location; the site lacks a suitable degree of enclosure and is not bounded on at least two sides with other development and the development cannot be absorbed into an existing cluster.

**Reason 3**

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would erode the rural character of the area.

**Signature(s):** Ciaran Devlin

**Date:** 18 October 2022

<b>ANNEX</b>	
<b>Date Valid</b>	4 August 2022
<b>Date First Advertised</b>	16 August 2022
<b>Date Last Advertised</b>	16 August 2022
<b>Details of Neighbour Notification</b> (all addresses) The Owner / Occupier No Neighbours	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	<events screen>
<b><u>Planning History</u></b>  Ref: LA09/2022/1230/O Proposals: Proposed Site for Dwelling and Domestic Garage. Decision: Decision Date:  Ref: LA09/2020/0970/O Proposals: Dwelling and garage Decision: PG Decision Date: 05-MAY-21  Ref: LA09/2022/1226/O Proposals: Proposed Site for Dwelling and Domestic Garage Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  DFI Roads - Enniskillen Office-Outline resp.docx	

**Drawing Numbers and Title**

Site Location Plan   Plan Ref: L01

**Notification to Department (if relevant)**

Not Applicable



**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 9 January 2023 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present**

Councillor Mallaghan, Chair

Councillors Black, Bell, Brown, Clarke\*, Colvin\*, Corry, Cuthbertson, Martin\*, McFlynn, McKinney, D McPeake\*, S McPeake\*, Robinson

**Officers in Attendance**

Dr Boomer, Service Director of Planning  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Mr McClean, Senior Planning Officer  
Mr McKeown, Senior Planning Officer  
Ms Scott, Council Solicitor  
Ms McNamee, ICT Support\*\*  
Mrs Grogan, Democratic Services Officer

**Others in Attendance**

LA09/2021/0933/F Joe Diamond\*\*\*  
LA09/2021/1093/F Tom Stokes\*\*\*  
LA09/2021/1173/F Cllr Molloy\*\*\*  
LA09/2022/0194/F Joe Diamond\*\*\*  
LA09/2022/1106/F Damian McMurray  
LA09/2022/1393/F Joe Diamond\*\*\*  
LA09/2022/1466/F Philip Caddoo\*\*\*  
LA09/2022/1543/O Kieran Wilson\*\*\*  
LA09/2021/1618/F Les Ross\*\*\*  
LA09/2021/1678/F Cllr Molloy\*\*\*  
LA09/2022/0168/O Chris Cassidy\*\*\*

Councillor Gildernew\*\*\*

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

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 7.04 pm

The Chair, Councillor Mallaghan wished everyone a Happy New Year and also welcomed Councillor Mark Robinson to his first meeting of the Council since he was co-opted and hoped that his father enjoys a long and happy retirement.

**P001/23 Apologies**

Councillor Glasgow.

## **P002/23      Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

## **P003/23      Chair's Business**

The Chair also referred to addendum which had been circulated earlier in the day and asked if those joining remotely had seen this document and had time to read it.

Members joining remotely confirmed that they had seen the addendum and had time to read it.

The Head of Development Management referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred/withdrawn from tonight's meeting schedule for an office meeting–

Agenda Item 5.13 – LA09/2022/0194/F - 2 agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs at approx. 40m SW of 14 Bancran Road, Draperstown for Danny Hegarty

Agenda Item 5.14 – LA09/2022/0196/F - Demolition of existing dwelling and erection of new dwelling at 29 Tobermore Road, Magherafelt for Cathy McKeefry

Agenda Item 5.15 - LA09/2022/0398/F - 3 Dwellings within existing approved housing development at existing Mulinderg Housing Development at approx 20m NE of No.8 for Corramore Construction

Agenda Item 5.18 – LA09/2022/1077/F - 2 storey dwelling and domestic garage at 30m SW of 55 Springhill Road, Ballindrum, Moneymore for Mark Henry

Agenda Item 5.21 – LA09/2022/1181/O – Site for dwelling and domestic garage at 70m NW of 14 Maghera Road, Tobermore for Hugh Bradley

Agenda Item 5.22 – LA09/2022/1277/F – Infill dwelling and garage at lands approx. 7m E of 20 Ballymacpeake Road, Portglenone for Feargus Quinn

Agenda Item 5.23 – LA09/2022/1294/O – Site for dwelling and domestic garage at lands approx. 35m N of 12 Drumard Road, Kilrea for Colm Bradley

Agenda Item 5.30 – LA09/2022/1561/O – Site for dwelling and domestic garage at lands approx. 30m S of 26 Grillagh Hill, Maghera for Malachy Scullin

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved**      That the planning applications listed above be deferred for an office meeting.



## **Matters for Decision**

### **P004/23 Planning Applications for Determination**

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

#### **LA09/2020/1306/F Renewal of Planning Permission for Residential Development Comprising 24 Semi Detached Dwellings and 26 Townhouses and 1 Apartment at Land to Rear of 52 West Street, Stewartstown for Ramsey Stewart**

Members considered previously circulated report on planning application LA09/2020/1306/F which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2020/1306/F be approved subject to conditions as per the officer's report.

#### **LA09/2021/0453/F Portal Frame Storage Shed to Store Equipment from AD Plant Adjacent and 70m S of 3 Gortnaskey Road, Draperstown for Lodge Renewables, Draperstown for Lodge Renewables**

Members considered previously circulated report on planning application LA09/2021/0453/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/0453/F be approved subject to conditions as per the officer's report.

#### **LA09/2021/0798/F 2 Storey Dwelling and Detached Garage Adjacent to an Established Farm-Yard (linked to LA09/2017/1550/O) at 140m NW of 115 Tulnacross Road, Cookstown for Ruairi Quinn**

Members considered previously circulated report on planning application LA09/2021/0798/F which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0798/F be approved subject to conditions as per the officer's report.

#### **LA09/2021/0887/F Housing Development & Associated Works, Comprising 4 Detached Dwellings & Provision of a layby fronting 2 Stiloga**

**Road, Dungannon to be used as a Drop of Point for Rainbow Community Childcare Group at lands immediately S and approx. 15m W of 2 Stiloga Road, Dungannon for PKJ Construction Ltd**

Members considered previously circulated report on planning application LA09/2021/0887/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0887/F be approved subject to conditions as per the officer's report.

**LA09/2021/0933/F Detached Home Office to Rear Existing Dwelling at 1A Cabragh Heights, Lurganagoose, Knockloughrim for Colm Roddy**

Members considered previously circulated report on planning application LA09/2021/0933/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0993/F be approved subject to conditions as per the officer's report.

**LA09/2021/1093/F Extension to the Existing Woodmarque Factory to facilitate the Erection of 2 No. Manufacturing/Warehouse Units (Class B2/B3/B4), ancillary offices and research and development accommodation; new on-site treatment works, security offices, electricity substation, silo, car parking and service areas, access improvements and all associated site works and landscaping at lands surrounding the existing Woodmarque Architectural Joinery Unit, 16 Mullaghbane Road, Greystone, Dungannon for Woodmarque**

Members considered previously circulated report on planning application LA09/2021/1093/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2021/1093/F be approved subject to conditions as per the officer's report.

**LA09/2021/1173/F Light Industrial Development including Site Works and new access at site adjacent & SW OF 32 Coalisland Road, Lurganboy, Dungannon for M Clarke**

Members considered previously circulated report on planning application LA09/2021/1173/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/1173/F be approved subject to conditions as per the officer's report.

**LA09/2021/1328/O Off Site Replacement Dwelling and Ancillary Domestic Garage at 215m W of 12 Tobermesson Road, Benburb for Messrs John and Thomas Madden**

Members considered previously circulated report on planning application LA09/2021/1328/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2021/1328/O be approved subject to conditions as per the officer's report.

**LA09/2021/1547/F Winning & Working of Minerals (sand & gravel) across phases 1 to 3 only and over a temporary period of 7 years and 6 months. The development includes the provision of a new access to Knockmany Road, Internal Haul Road and landscaped earth berms, with progressive restoration to agriculture at a lower level (re-advertisement) at lands to the E & W of 53 Knockmany Road, Augher, for Campbell Contracts Ltd**

Members considered previously circulated report on planning application LA09/2021/1547/F which had a recommendation for approval.

Councillor Cuthbertson advised that whilst glancing through the papers he noticed that the Planners report was fairly lengthy in its decision. He enquired whether the Planners were content that this would not have any effect on the Knockmany site in which Council were promoting as it was boundarying Knockmany Forest.

The Strategic Director of Planning (SD: Planning) advised that there were concerns regarding this as Campbells were a large quarrying company in the area boundarying Fermanagh & Omagh which could have been a concern due to the area they cover. Officers had consulted with our Recreation Department and they did not raise any concerns. What the scheme does show was quite a bit of landscaping along the front and it was his understanding that this landscaping had to be completed before the mineral extraction. It was also his understanding that this had to be done in two phases for both sides.

Councillor Cuthbertson said that this was all road frontage and would not be feasible to have this all opened up all at the one time. He felt that this would be an ideal

proposal for a site visit and was unaware of any pressure being put on the candidate or not.

Ms Doyle (SPO) advised that there were restoration conditions listed within the report which were timebound. She referred to Condition 12, phases 2 and 3 & restoration Phases 2 and 3, & Restoration as annotated on drawing numbers 04, 05, 06 & 07 which were date stamp received 22nd October 2021, shall not commence until the screening bunds as shown on Drawing Number 03 and a number of other restoration works. Phases 1, 2 & 3 shall be completed within 9 years of mineral extraction. Condition 6, restoration works shall take place on a progressive basis in accordance with the details indicated. She advised that there was no emphasis on specific landscaping but that the restoration would include the landscaping.

The SD: Planning agreed that the proposal did sit beside the road and the forest and would be useful to see the phasing first and quite right that it should be looked at.

Councillor Cuthbertson said that this application would be ideal for a site visit as it would indicate where the new site entrance would be.

The SD: Planning referred members to overhead site plan and took them through each phase of the development.

Mr McClean (SPO) advised that initially the application was received for 4 Phases, but this had now been reduced to 3 Phases which were all located to the West. He stated that the extraction part on Phase 4 was removed but before excavation in Phase 1 there were works to be carried out to the East for Phase 4. He referred to the map and indicated that everything to the West was Phase 1, 2 & 3 and everything to the East was Phase 4. He advised that there was not going to be any excavation in Phase 4 but would be pre-commencement works such as bunds and landscaping included so that the excavation in Phase 1, 2 & 3 will be screened from public view.

The SD: Planning said that he could see woodland planting etc on the overhead map and asked if it was feasible to have this landscaping done before excavation takes place.

Ms Doyle (SPO) referred to Condition 4 *"No commencement of mineral extraction hereby approved shall take place until all site preparatory works, including landscaping and screening bunds, have been put in place in accordance with details indicated on drawings No. 03 and 09 date received 22.10.2021, and as described in 4.8.1 of the Environmental Statement"*. She advised that before commencement of Phase 1, landscaping and bunds have to be in place.

The SD: Planning advised that when this first submitted, it was for the whole development which he felt was a bit too much for this area as it was in the Clogher Valley which was an attractive area with woodlands surrounding it and had raised concerns. He said that it was next to the main road and the applicant needs to carry out this bunding to protect it and obviously there is woodlands all around it. He said to answer the question whether it would be visible from the road, he said that of course it would as the bunding would be messy at the start as it was only a heap of topsoil until

trees and shrubs were planted but hoped that over a period of 5 to 6 years that there could be adequate screening at the location.

Mr McClean (SPO) advised that when the agent was carrying out their visual landscape assessment decided to do the first Phase to the North of the site which isn't adjacent to the road because the visual impact of the development/excavating would have a less of a visual impact rather than just making the access excavation directly adjacent to the road. He said what the applicant was actually proposing was to create a roadway at the very back of the site and excavating from the North towards the road and their progression restoration would mean a less of a visual impact from the public road.

The SD: Planning advised members that officers were treating this application as an exception due to the level its being brought to as planning would be quite entitled to refuse it as it currently was in an area of mineral constraint as this could be done on a small scale in a short time. He said that he was quite confident that this was not in an area of mineral extraction on the new plan.

Mr McClean (SPO) said that it was his understanding that this was in both.

The SD: Planning said that the view could be taken that this could occur as it was surrounded by the forest and treating this application as an exception.

Councillor Cuthbertson said that he was familiar with the area and would be concerned as within a half mile radius over this past 40 years there had been a lot of extractions including the other side of the road. To the left-hand side of the overhead map, only 150 – 250m away from the entrance to Knockmany which was developed in recent years and there was an open sandhole which hasn't been touched this past 20-30 years facing the road on a steep hill.

Councillor Cuthbertson felt that it would be useful for the committee to see the proposal on the ground first before approving the application.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2021/1547/F be deferred for a site visit with Members.

**LA09/2021/1698/F Vehicular Entrance at 41 Drumard Cross Road, Dungannon for Gary Jennings**

Members considered previously circulated report on planning application LA09/2021/1698/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/1698/F be approved subject to conditions as per the officer's report.

**LA09/2022/0032/F First Floor Office Extension to contain new staircase additional office and amenity space at 2 St Patrick's Street, Draperstown, Magherafelt for Heron Brothers Ltd**

Members considered previously circulated report on planning application LA09/2022/0032/F which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/0032/F be approved subject to conditions as per the officer's report.

**LA09/2022/0177/F Variation of Conditions 7 & 8 of planning approval LA09/2020/0376/F at 140m NW of 4 Maghadone Road, Moneymore for Splash (Ireland) Ltd**

Members considered previously circulated report on planning application LA09/2022/0177/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/0177/F be approved subject to conditions as per the officer's report.

**LA09/2022/0194/F 2 agricultural sheds for machinery and feed storage, including photo voltaic panels on southern facing roofs at approx. 40m SW of 14 Bancran Road, Draperstown for Mr D Hegarty**

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

**LA09/2022/0196/F Demolition of existing dwelling and erection of new dwelling at 29 Tobermore Road, Magherafelt for Cathy McKeefry**

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

**LA09/2022/0398/F 3 dwellings within existing approved housing development at existing Mullinderg Housing Development at approx. 20m NE Page 3 of 584 of No.8, Moneyneany, for Corramore Construction**

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

**LA09/2022/0542/F Upgrade to the existing milk reception/priority planning application including 2No. 300m3 water storage tanks approx. 6.5 diameter and 9m high plus pumping set for 2No 200m3 RO polished water storage tanks approx. 6.5m diameter and 6m overall height. Extension to existing CIP canopy to provide 3No. tanker washing facilities and demolition of existing disused office building and relocation of existing weigh-bridge, Extension to existing milk intake bays to provide 3No. milk intake bays and replacement of 6No. existing milk silos highlighted to be replaced with 6 new 250000l silos. at Dunmanbridge, 141 Moneymore Road, Cookstown for Dale Farm Ltd**

Members considered previously circulated report on planning application LA09/2022/0542/F which had a recommendation for approval.

Proposed by Councillor Brown  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2022/0542/F be approved subject to conditions as per the officer's report.

**LA09/2022/0716/F Dwelling and garage adjacent to 60 Sixtowns Road, Draperstown for Gavin and Senitta Scullion**

Members considered previously circulated report on planning application LA09/2022/0716/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2022/0716/F be approved subject to conditions as per the officer's report.

**LA09/2022/1077/F 2 Storey Dwelling and Domestic Garage at 30m SW of 55 Springhill Road, Ballindrum, Moneymore for Mr Mark Henry**

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

**LA09/2022/1106/F Replacement Dwelling and Carport at 5 Greenvale, Cookstown for Mr Odhran McCracken**

Ms McKinless (SPO) drew attention to the previously circulated report on planning application LA09/2022/1106/F which had a recommendation for approval. She advised that additional information was submitted late this evening by one of the objectors supporting his claim that the laneway was a right of way which was included in the addendum.

The Chair referred to information in the addendum relating to the Title Deeds and maps included and enquired what this provides the committee.

Ms McKinless (SPO) advised that these were provided by one of the objectors basically indicating the claim to support that the laneway is right of way and as such should be retained. She said that there were queries during the application whether it was a public or private right of way and as it stands there is no development or planting obstructing the right of way. She said that Officers were happy in terms of policy.

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

Mr McMurray thanked the members for allowing him the opportunity to address the committee tonight. He apologised for submitting additional information at such late notice as it was only made available to him from the planners in the last few days. He advised that he had resided at No. 11 Drumvale Avenue for almost 25 years and during that time it has been a public right of way. He said that he had absolutely no objections to the house being replaced but his objection was to have the right of way retained the way it was and when he put up his retaining wall the previous owner had stated that it was right of way and when he went to Land Registry last Friday to see what the documents were it showed that the reason why they right of way wasn't on the new document was because the solicitors did not fill in the parts of the form in the document. He referred to the last page of the map which clearly shows the right of way. He said that the new solicitors did not fully complete their role as this was a right of way to the old estate of the Greenvale Hotel and during the time he had lived at his home everyone had walked through it from various estates. His concern was the application which was submitted it indicated a new line of hedges adjacent to his retaining wall which over 15 years could grow causing detrimental damage to his wall. He said that he worked for Building Control in Derry & Strabane Council and was all too aware the effect trees and roots have on retaining walls and his concern was whose responsibility it will be if the wall deflects and collapses as his drainage lines go through that. He asked who was going to stand over a damaged/collapsed wall or a hedge of Portuguese Laurel growing to 2 metres high and asked why the original right of way cannot be retained.

The SD: Planning said that there were two distinct issues. One related to a right of way and if this is a private right of way then Council does not come into play and this is an issue between the parties concerned, but if it is a public right of way, then Council does have a responsibility to take that into account in reaching a decision. He said that obviously there is nothing from stopping someone from building on someone else's land and this is between the parties to find a solution. He referred to the retaining wall and enquired why objector felt it was at risk.

Mr McMurray advised that the proposed hedge will be adjacent to his retaining wall and if it was shrubs or trees like Portuguese Laurel or something similar then the roots of these species will move and damage his retaining wall and enquired who will stand over the repair of the wall.

The SD: Planning said that in planning terms, the department does not give permission to plant hedges or not to plant hedges. Clearly if a bit of retaining wall is built on another piece of land what is under your control then it's your responsibility and was sure the objector was aware that a retaining wall was not the remit of



planning. In this instance Planning cannot stop someone from planting hedges against the retaining structure but can ask for the hedge which was proposed to be removed from the plan and it was obvious that there was no building taking place on the right of way. Officers could request that the tree/hedge planting be pulled back and the land kept free as it was not affecting by this proposal and this was as far as planning could go to address the objector's concerns.

In response to objector's query regarding the height of the hedge, the SD: Planning advised that officers would request that these are not shown on the plans. When officers ask for hedges and trees to be included in plans, this is usually done to keep with the character of the area which is usually in the countryside or screening within a town, but in this instance this is not a public interest either way. He felt if this was removed from the plans then this would address the objector's concerns which would be authorised by officers, but they wouldn't step in and get involved and in this instance. He suggested a deferral for submission of amended drawings from the agent.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn

**Resolved** That planning application LA09/2022/1106/F be deferred for submission of amended drawings from the agent.

*All members present declared an interest in planning application LA09/2022/1149/F.*

**LA09/2022/1149/F** Public realm improvements comprising the resurfacing of existing footpaths and spaces; new/replacement tree planting; new street and feature lighting; new/replacement street furniture and railings; reconfiguration of ingress/egress points at the car park on the Coleraine Road; reconfiguration of on-street parking and realignment of roadside kerbs; a new pedestrian crossing on Lower Main Street; and all associated site works at Lands Adjacent To 1-5 Glen Page 4 of 584 Road, 2-122 Main Street, Maghera Day Centre, 2-53 Coleraine Road, 2-48 Hall Street, 1-19 Fair Hill, 2-12 Bank Square, 1-6 Martins Terrace, 1-43 Church Street, 20 Tirkane Road, 7 Meeting House Avenue, Maghera for Mid Ulster District Council

Members considered previously circulated report on planning application LA09/2022/1149/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2022/1149/F be approved subject to conditions as per the officer's report.

**LA09/2022/1181/O Site for Dwelling and Domestic Garage at 70m NW of 14 Maghera Road, Tobermore for Mr Hugh Bradley**

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

**LA09/2022/1277/F Infill dwelling and garage at lands approx 7m E of 20 Ballymacpeake Road, Portglenone for Mr Feargas Quinn**

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

**LA09/2022/1294/F Site for Dwelling & Domestic Garage at Lands approx. 35m N of 12 Drumard Road, Kilrea for Mr Colm Bradley**

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

**LA09/2022/1393/F 2 Detached Dwellings 1 accessed via Glen Road and 1 accessed via Glen Gardens at 20m E of 62 Glen Road, & Glen Gardens off Glen Road Maghera for Mr Bernard O'Loughlin**

Members considered previously circulated report on planning application LA09/2022/1393/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2022/1393/F be approved subject to conditions as per the officer's report.

**LA09/2022/1414/O Site for Dwelling and Garage adjacent and S of 197 Drumagarner Road, Kilrea for Mr Terence Birt**

Members considered previously circulated report on planning application LA09/2022/1414/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1414/O be approved subject to conditions as per the officer's report.

**LA09/2022/1417/O Site for Dwelling and Garage adjacent and S of 199 Drumagarner Road, Kilrea for Mr Terence Birt**

Members considered previously circulated report on planning application LA09/2022/1417/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2022/1417/O be approved subject to conditions as per the officer's report.

**LA09/2022/1466/F Renovation works to include side and rear extensions with attic conversion at 8 Ballyreagh Road, Ballygawley for Mr Peter Somerville**

Mr Marrion (SPO) presented a report on planning application LA09/2022/1466/F advising that it was recommended for refusal.

The Chair said that it was his understanding that the principle of the development has been met and this was simply down to the design feature of the windows on the second floor.

Mr Marrion (SPO) agreed that this was the case as it was just the two windows on the front elevation of the property.

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

Mr Caddoo said that after deliberation felt that it may be better to proceed with a deferral. He said that due to the circumstances they had looked around due to it being stated within the report that the proposal was out of character in the surrounding area and it was evident that there were quite a few house with dormers, with one beside a listed building as the house itself has dormers. He felt that this may be a case where there could be a bit of play and the applicant's view on it was that it actually helps the house as it has a very steep pitch roof. He said that the case officer had indicated that usually they don't usually permit these roof lights unless they come off the front wall as a traditional dormer which was simply not an option in this case as the pitch of the roof would make it more strikingly obvious.

He said that he would welcome a deferral or discussions with officers to see if there was any movement on it at all rather than going with the roof lights.

In response to a query regarding liaising with Historical Buildings, Mr Marrion (SPO) advised that there was no consultation with them due to the fact the at the building was some distance away.

The SD: Planning said that whilst it can be seen from the main road, it looks to be fair distance away.

He said that Building Control recommends a means of escape and enquired how this would be achieved.

Mr Caddo referred to the front elevation which is actually one bedroom in that area where a window was added to the gable wall. He said that essentially that this is a roof and felt that it would help the building as they were symmetrical and place over the openings.

The SD: Planning said that officers do not want someone not to be making improvements to their own home but would take the view that this was so minor that he wouldn't be that worried about it as it was a building post war and not harming its rustic or origin of character. He felt that distance from the listed building was also substantial and was not too worried.

Councillor Cuthbertson advised members that he travels the Dungannon Road each day and was well aware where the old cottage was and also knew that it wasn't linked to the old barn which is the listed building. In his mind's eye it's not really visible from the road and was only a small typical high cottage and didn't see an issue and if there were any issues, he was confident that Building Control would pick it up.

Councillor Cuthbertson said that he would be happy to overturn the recommendation as an exception.

Proposed by Councillor Cuthbertson  
Seconded by Councillor McKinney and

Resolved That planning application LA09/2022/1466/F be approved.

**LA09/2022/1476/RM Dwelling (LA09/2021/0994/O) adjacent to 21 Tullyveagh Road, Doorless ,Cookstown for Mr Patrick Conlon**

Members considered previously circulated report on planning application LA09/2022/1476/RM which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2022/1476/RM be approved subject to conditions as per the officer's report.

**LA09/2022/1543/O Dwelling adjacent to 11 Gort Road, Coagh for Mr Patrick Wilson**

Members considered previously circulated report on planning application LA09/2022/1543/O which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2022/1543/O be approved subject to conditions as per the officer's report.

**LA09/2022/1561/O Site for dwelling & domestic garage at approx. 30m S of 26 Grillagh Hill, Maghera for Mr Malachy Scullin**

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

## **Receive Deferred Applications**

**LA09/2020/0122/F Housing Development (34 units), foul water treatment works and associated site works at Lands between Killymeal Grange and Dunlea Vale (Former Oaks Park Stadium) Dungannon for Landmark Homes (NI) Ltd**

Members considered previously circulated report on planning application LA09/2020/0122/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2020/0122/F be approved subject to conditions as per the officer's report.

**LA09/2020/0428/F 1 No. detached dwelling and 2 No. semi-detached dwellings (two storey) adjacent to 86 Coleraine Road, Maghera for Mr Michael Young**

Members considered previously circulated report on planning application LA09/2020/0428/F which had a recommendation for approval.

Proposed by Councillor Corry  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/0428/F be approved subject to conditions as per the officer's report.

**LA09/2020/0561/F Unit for valeting and cleaning of cars (amended plans) at 15m SE of 82 Corr Road, Dungannon for Dan McNulty**

Members considered previously circulated report on planning application LA09/2020/0561/F which had a recommendation for approval.

Councillor Cuthbertson said he was sure that he was speaking regarding the right location. He referred to a very bad sightline and felt that it would be beneficial for the developer to tie something in as it would be in everyone's best interests to remove the hedge as it was obstructing the view coming onto the junction at the A45 Ballynakelly Road close to the Cohannon Inn.

The SD: Planning enquired if Roads Service was consulted.

Mr Marrion (SPO) advised that Roads Service were consulted re Access onto Corr Road, as it was a public road. He advised that it wasn't part of the proposal and Roads Service have been consulted regarding access onto Corr Road.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn

**Resolved** That planning application LA09/2020/0561/F be approved subject to conditions as per the officer's report.

*Councillor Black left the meeting at 7.58 pm.*

**LA09/2021/0146/O Site for 2 storey dwelling and garage with use of existing entrance to the Drum Road between 167 Drum Road and Oakland Villas at Site Between Oakland Villas and 167 Drum Road, Cookstown for Philip And Judith Mitchell**

Members considered previously circulated report on planning application LA09/2021/0146/O which had a recommendation for approval.

*Councillor Black returned to the meeting at 8 pm.*

Proposed by Councillor Brown  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2021/0146/O be approved subject to conditions as per the officer's report.

**LA09/2021/0599/O 2 infill detached dwellings and detached garages, shared access onto Rogully Road and landscaping adjacent and NW of 6 Rogully Road, Loup, Moneymore for Ashling McNicholl**

The Chair referred to previously circulated report on planning application LA09/2021/0599/O which had a recommendation for refusal. He advised that a request had been made about raising this item in confidential business but because no concerns had yet been raised with the Planning Department in terms of a need i.e. medical or whatever the case might be, this cannot be accommodated. He advised that if this evidence is provided at some later stage perhaps if this goes to a site visit or whatever the case may be, then this can be considered if it was to be heard again.

The Chair advised that a request had been made for a meeting on site with the Planning Committee. The request reads that the applicant wishes to have an office meeting on site, but it has been made clear to the agent that this was not an option, and a site visit was the only option to allow committee members the opportunity to look and see what the circumstances were.

Councillor McKinney felt in these circumstances it may be beneficial to have a site visit and if the agent and applicant wishes to address the issues with some of the officers or requests an office meeting, then so be it.

The SD: Planning advised that an office meeting had already taken place.

He said that the arguments were crystal clear and quite reasonable for a situation like this one for members to go out and look at the site for themselves. In a situation like this it was important to stress that there was something here which was quite unusual

to come to committee and ask for this to go into closed business without giving an explanation why as this was against planning's basic principles as it was important to have an open and transparent process. If they were seeking this request for one house it shouldn't reflect on the other houses. He stated that he had no objections to what the member has said but the meeting with officers has already occurred and if there was something to be brought to light then this should have been done. He said that he was raising this as there seemed to be the assumption that there could be endless bites of the cherry, which was not the case, as an office meeting requires everything to be written down which they wish to be considered as there was a need to keep planning applications moving.

Councillor McFlynn advised that she wished to make people aware that there may be family circumstances relating to this one and said that it was her that approached the Chair seeking that it be raised in confidential business and said that this was her fault. She apologised in the instance of not following the correct procedure.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0599/O be deferred for a site visit with Members.

**LA09/2021/0905/O 2 Detached Dwellings and wastewater treatment plant (Revised Concept Scheme) to rear of 9-11 Killyveen Park, Granville, Dungannon, for Jim Fay**

Members considered previously circulated report on planning application LA09/2021/0905/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/0905/O be approved subject to conditions as per the officer's report.

**LA09/2021/1302/F Infill dwelling and domestic double garage at approx. 35m NW of 92 Lisaclare Road, Stewartstown for James Coyle**

Members considered previously circulated report on planning application LA09/2021/1302/F which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/1302/F be approved subject to conditions as per the officer's report.

**LA09/2021/1618/F    Storage shed, yard repositioning of existing saw and associated ancillary works adjacent to 51 Knockanroe Road, Cookstown for Reid Engineering Ltd**

Members considered previously circulated report on planning application LA09/2021/1618/F which had a recommendation for approval.

*Councillor Black declared an interest in above application.*

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved**    That planning application LA09/2021/1618/F be approved subject to conditions as per the officer's report.

**LA09/2021/1678/F    Two storey dwelling and attached garage at S of 179 Coash Road, Killyman, Dungannon for Stephen Mc Aliskey**

*Cllr McKinney left the meeting at 8.05 pm.*

Mr Marrion (SPO) presented a report on planning application LA09/2021/1678/F advising that it was recommended for refusal.

*Cllr McKinney returned to the meeting at 8.09 pm.*

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

Councillor Molloy said that he was aware of the significant work and complications around the design of this dwelling to get it to where it looks now with several changes back and forth. He agreed that it was slightly different to the other dwellings around the area but when he drives around the countryside in this area, not too far away he sees multiple slightly different looking buildings which have been passed by this Council. If we were splitting hairs and not on ridge height which was originally a problem and right down now from ascetics to looking at equal ridge heights across the three buildings. He said that this was a young couple coming into settle within the area and had put forward a more modern design and felt there was a need for Council to be looking at this on the realm of it.

The Chair said that he recalled this raised the last time and one of the concerns from the drawing was that the architect had indicated that the ground levels were lower for the proposed site than what existed. He said that unfortunately he did not make the site visit and enquired what was the situation on the ground.

Mr Marrion (SPO) referred to the overhead drawing submitted by the architect there were spot levels showing that the site level does rise and fall, the proposed house itself will involve some cutting to the south part of the site but does not require any retaining structures which was discussed at the original meeting. He advised that site itself would not have the massive excavation that was previously thought.



The Chair sought clarity on the difference of ridge heights between the proposed dwelling and neighbouring dwelling.

Mr Marrion (SPO) advised the difference in ridge heights is less than one metre from between the dwelling on the right-hand side and the dwelling to the left-hand side. The other side the difference in heights is nearly two metres and the small cottage on the left-hand side and the new highest ridge.

The SD: Planning stressed the importance of making sure that a proposal meets the policy.

The Chair said that basically it was down to the fact that this was a two-storey dwelling nestled between two bungalows and the view of the officers is that it was out of character.

The SD: Planning advised that members had been out to see the site.

Councillor Colvin said that he was on that site visit and could understand officers' concerns on the ridge height. He was aware of a conversation with the agent and when you look at the drawing it does appear to look higher and couldn't see how that would change.

Councillor Bell referred to the right of the building where it slopes down towards the bungalow on the left side and assumed that's where it was 2 metres higher than the adjacent. He said it looks to be integrating well on the right-hand side and felt that if this was going to be a sticking point that something similar could be done on the left side therefore it would integrate.

Mr Marrion (SPO) advised that this was one of the first proposals put to the applicant, but they had refused.

The SD: Planning said that it was quite clear to him that if the application was refused the applicant still had the opportunity to go to planning appeals. He advised that if the applicant loses the planning appeal that planning was still open for business.

Proposed by Councillor Bell  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/1678/F be deferred for submission of amended plans.

**LA09/2022/0168/O Domestic dwelling and garage in a cluster at 25m N of 2 Coltrim Lane, Moneymore for Mr Mark Hamilton**

Ms Doyle (SPO) presented a report on planning application LA09/2022/0168/O advising that it was recommended for refusal.

*Bell left at 8.15 pm and returned at 8.17 pm.*

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

Mr Cassidy advised Members that in front of them was an overview of the site and the policy under which we are applying. The site itself is outlined in red and is accessed from a laneway adjacent to Chambers Bus yard on the Coldrim Road at the top of the image. This laneway serves two houses, railway carting and has approval for two further houses in the area outlined in blue. He took members through each of the criteria in turn:

Criteria 1- requires that there are at least 4 buildings, three of which are houses. The image shows at least twelve buildings here, three of which are houses as denoted on the image. He said that Council consider this to be correct and accept there is a cluster of development here.

Criteria 2 & 3 - Criteria 2 asks that the cluster appears as visual entity in the landscape and criteria 3 asks that it is associated with a focal point. The image he believed speaks for itself. Railway carting and Chambers bus Hire are long standing features in the landscape here. Many of the members here tonight will pass this site on a weekly or indeed daily basis. The site itself is sandwiched between these two businesses. They are easily identifiable focal points. The laneway that is used to access the site also is used to access Railway Carting. There is nowhere in the policy that states all the buildings in the cluster must read together. The Council accept there is a cluster of development here that meets policy. The question he asked members was to consider is if these two focal points are viewed as separate entities or are they both associated with the cluster of development at this location.

The site is currently bounded by dwellings 1 and 3 in the image. It does not rely on the two approved sites for enclosure. Dwelling 1 bounds the site in its entirety and dwelling 3 bounds it with approx. two thirds of its curtilage.

He felt that an approval here will not alter the character of the area or impact on any surrounding properties. The introduction of this development will lie into the existing cluster and will not encroach into the open countryside. The proposal in his view meets the requirements of the cluster policy and complies with the overall thrust of it. This being the case Mr Cassidy asked members to reconsider the recommendation.

The SD: Planning advised although a lot was said only one key area was addressed stating that it wouldn't change rural character. He said that sometimes you can focus too much on detail and miss the actual point. He said that an infill was granted which was quite generous and these have not been built and the countryside is not a place where you can just accumulate emissions and the whole point of the cluster is what is there exists so when you put something there, it will not change the rural character. He stated that he passed down this road twice every single day and can see quite clearly that it will start to change that character because this was not infilling but filling a line of houses to the front and would be confident if two permissions was granted that this will not end there. He felt in time if this continued that rural character would be changed.

Councillor Brown said that he wasn't familiar with the site but said that it may be beneficial for members to go and visit it.

The SD: Planning advised members that planning was under scrutiny to make planning decisions and didn't object with members going out on site visits and in earlier times it was very sensible, but this is next to a main road which members have passed on a daily, weekly or monthly basis and would be very surprised if a member did not know where this was on the Moneymore Road. He asked members to make some decisions as the Council were inundated with planning applications which cannot be shifted and although sometimes it is unpleasant to refuse applications, there is a need to make those decisions.

Proposed by Councillor McKinney  
Seconded by Councillor Brown and

**Resolved** That planning application LA09/2022/0168/O be deferred for a site visit with members.

### **Matters for Information**

#### **P005/23 Minutes of Planning Committee held on 6 December 2022**

Members noted minutes of Planning Committee held on 6 December 2022.

*Live broadcast ended at 8.30 pm.*

### **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P006/23 to P010/23.

#### **Matters for Decision**

P006/23 Receive Enforcement Report

#### **Matters for Information**

P007/23 Confidential Minutes of Planning Committee held on 6 December 2022

P008/23 Enforcement Live Case List

P009/23 Enforcement Cases Opened

P010/23 Enforcement Cases Closed

**P011/23      Duration of Meeting**

The meeting was called for 7.00 pm and concluded at 9.00 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

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

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

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

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

proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

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



## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 9 January 2023**

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

### **Chairs Business –**

-

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
5.19	Additional information received from objector	Members to note, matters already considered in report.
6.10	<p>Refusal reasons were omitted from the case officer report as follows:</p> <p>1.</p> <p>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.</p> <p>2.</p> <p>The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape, the cluster is not associated with a focal point or is not located at a cross-roads, the site is not bounded on at least two sides with other development in the cluster and the dwelling</p>	Members to Note

	<p>would if permitted visually intrude into the open countryside.</p> <p>3.</p> <p>The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings and would therefore result in a detrimental change to further erode the rural character of the countryside.</p> <p>The conclusion of the report should read “the application fails to meet four of the six criteria of Policy CTY2a and a refusal is being recommended”.</p> <p>See ortho photography submitted by agent.</p>	



Form 1

001523843-003679506-00001-1:F

User Ref: M2753/5(1streg)/Rc/DF

Application by a Solicitor for first registration (rule 11(1))



Land & Property Services.

THE LAND REGISTRY

DATE: 31 May 2022

1. Description of the Land

"The land"

The land shown shown edged red on the map annexed, shown edged red on the map annexed, known as 5 GREENVALE, DRUM ROAD, COOKSTOWN, COUNTY TYRONE and AND THE ADDITIONAL LANDS FORMING PART OF THE LANEWAY LEADING TO THE PREMISES SITUATE IN THE TOWNLAND OF GORTALOWRY PARISH OF DERRYLORAN BARONY OF DUNGANNON UPPER AND COUNTY OF TYRONE, COUNTY TYRONE

2. Applicants

"The applicant"

ODHRAN MCCracken AND NATASHA MCCracken of 4, WESTWOOD PARK, COOKSTOWN, COUNTY TYRONE is full owner

3. Limited Ownership

4. Applicant's estate and class of title sought

Absolute title by virtue of a Conveyance (not being a Conveyance of a Fee Farm Grant) dated 15 August 1994 between Edith Heather Ann Lyle and Anthony James Dardis and Matilda Margaret Dardis. The root of title being a conveyance for monetary consideration more than 15 years old.

Absolute title by virtue of a Conveyance (not being a Conveyance of a Fee Farm Grant) dated 15 August 1994 between Samuel Robert Lyle and Anthony James Dardis and Margaret Matilda Dardis. The root of title being a conveyance for monetary consideration more than 15 years old.

5. Acquisition

The applicant(s) acquired the land on 25 March 2022 by virtue of a deed of Conveyance dated 25 March 2022 between MATILDA MARGARET DARDIS and ODHRAN MCCracken AND NATASHA MCCracken

6. Appurtenant Rights

[NB: Mapping of this right will not be carried out by Land Registry. A note of a claimed appurtenant right will only be registered where the requisite additional fee has been paid.]

7. Easements

[NB: Mapping of this right will not be carried out by Land Registry. A note of the existence of a Schedule 5 burden will only be registered where the requisite additional fee has been paid.]

8. SCHEDULE - BURDENS

Item No.	Particulars of burdens

9. Certificate of Title

I hereby certify as follows:

(a) I act for the Applicant in relation to the land and I have investigated the title fully.

(b) All necessary searches and enquiries have been made.

(c) I believe that the Applicant is in undisputed possession of the land or in sole receipt of the rents and profits thereof and I am satisfied that the land is not subject to any burden requiring entry on the title register except for the matters listed in the Schedule hereto. The applicant is entitled to the benefit of such appurtenant right (if any) as is referred to in Panel 6.

(d) None of the persons named as Applicant is a minor or a bankrupt or the subject of insolvency proceedings or is a company which does not have power to hold, sell, mortgage, lease, or otherwise deal with the land.

(e) I am not aware of any circumstances whereby the Applicant's title may be set aside or impeached in any matter whatsoever under the Insolvency (Northern Ireland) Order 1989.

(f) The person or persons (if any) identified in the Schedule as being entitled to the interest of the mortgagee or chargee under a mortgage or charge is/are entitled to be registered as owner of that mortgage or charge and as solicitor for such person(s) I apply for registration of ownership.

(g) All material information has been supplied and I enclose the documents mentioned in Panels 4 and 5, and mortgage or charge to be registered and any other document mentioned in Panels 6 or 7 or in the Schedule hereto.

(h) The applicant is entitled to be registered as owner of the land for the estate and with the class of title stated above subject only to the burdens listed in the Schedule hereto and I request registration accordingly.

(i) I am applying for an extension of time as the application has not been made within the period specified in Schedule 2 to the Land Registration Act (NI) 1970 by reason of the following accident or sufficient cause:  
we require the extension on the basis of completion of registration in Registry of Deeds

Signature of partner or authorised Solicitor:   
(Signature must be of a qualified Solicitor not that of the firm)

Date 31 May 2022 Name of Firm Davis and Heston

# ACEmap® Single

Printed: 10/08/2017 Customer Ref:

Centre Point (Easting, Northing): 280606, 377045

5 GREENVALE, GORTALOWRY, COOKSTOWN, BT80 8QS, 185771103

Scale: 1:1,250

Order no. ORD43501

Plan No. 12407SE3

280710

377184

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Every care has been taken to ensure accuracy in the compilation of this map at the time of publication. Land & Property Services cannot, however, accept responsibility for errors or omissions and when such are brought to our attention, the amendment of any future publication as appropriate shall be entirely at our discretion. Ordnance Survey of Northern Ireland and ACEmap® are registered Trademarks of Department of Finance and Personnel.

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A

Folio: TY117644

County: Tyrone

Date Searched to: 23/12/2022

Details of Pending Applications:

Application Number	Application Type	Applicant Reference	Applicant	Date Lodged
There are no pending applications.				





Land & Property Services  
Seirbhísí Talún & Maoine  
THE LAND REGISTRY CLÁRLANN NA TALÚN

Date: 06 Jan 2023  
County: Tyrone  
Folio: TY117644  
Scale: 1:1250  
Our Ref: 2023/12576  
Your Ref: MCMURRAY  
Map Ref(s): 12407SE3

Sheet 1 of 1

Key to folio labels:

**a - TY117644**

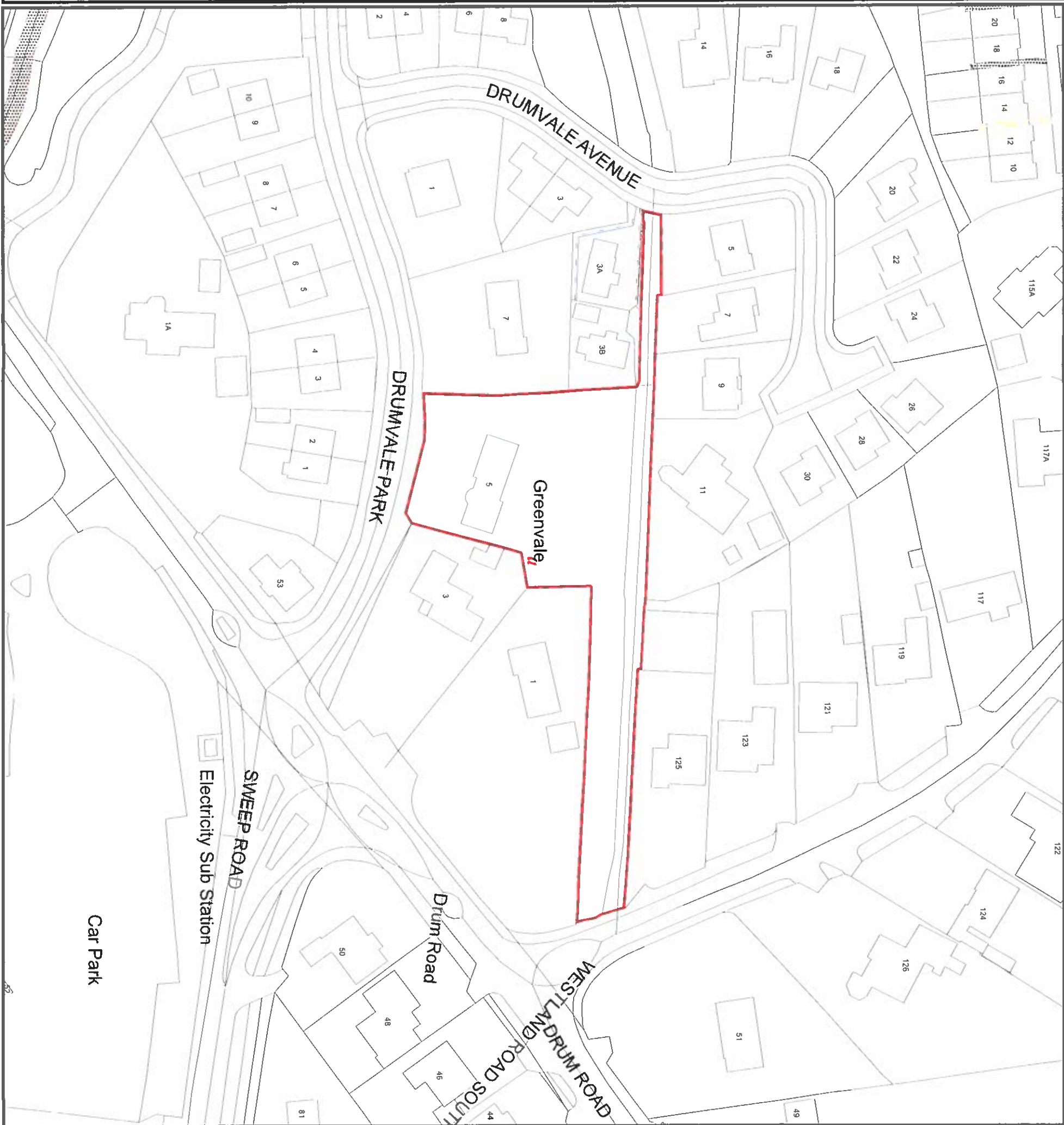
This map is for location purposes only (Rule 14(1) of the Land Registration Rule (Northern Ireland) 1994 as amended by paragraph 19 of the Schedule to the Amendment Rules 2000). Folio boundaries are not guaranteed. (Section 64 of the Land Registration Act (Northern Ireland) 1970). The coincidence of Land Registry markings and OSNI features may have been affected by revisions of the OSNI map subsequent to registration.

This map has been prepared using the largest scale Land Registry map available for the area. Any future Deed map should be based on the largest scale OS Irish Grid Plan available for the area. N.B. Folio boundaries are not conclusive (unless so described on the folio). See S64 of the Land Registration Act (NI) 1970. Where there is any doubt concerning boundaries, the original instrument or Document should be inspected.

This copy map shows the location of the lands comprised in the folio listed above.

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C

Dated this 15<sup>th</sup> day of August 1994

BETWEEN

SAMUEL ROBERT LYLE

and

ANTHONY JAMES DARDIS

and

MARGARET MATILDA DARDIS

---

C O N V E Y A N C E

---

McConnell and Fyffe,  
Solicitors,  
1 John Street,  
Omagh,  
Co Tyrone

THIS INDENTURE is made the 15<sup>th</sup> day of August

SAMUEL ROBERT LYLE of 5 Greenvale, Drum Road, Cookstown, County Tyrone  
Builder (hereinafter called "the Vendor") of the one part and ANTHONY JAMES  
DARDIS College Principal and MARGARET MATILDA DARDIS his wife both of 9  
Thornville Park, Omagh, County Tyrone (hereinafter called "the Purchasers") of the  
other part

WHEREAS

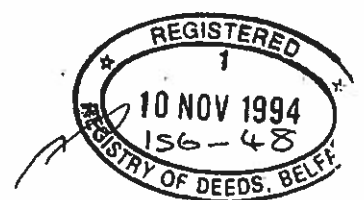
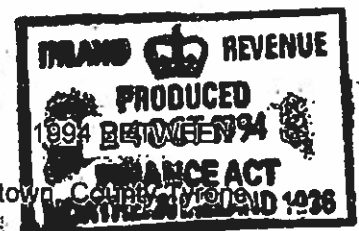
1. Under and by virtue of the deeds and documents set forth in parts I, II and III of  
Schedule One hereto the Vendor is seised of lands situate in the Townland of  
Gortalowry more particularly described in Parts I, II and III of Schedule Two hereto  
(hereinafter called "the Scheduled Lands") and intended to be hereby assured in fee  
simple in possession free from incumbrances.

2. The Vendor has agreed with the Purchasers for the sale to the Purchasers of the  
Scheduled Lands at the price of £1000.00.

NOW THIS INDENTURE WITNESSETH that in pursuance of the said agreement and  
in consideration of the sum of one thousand pounds now paid by the Purchasers to  
the Vendor (the receipt whereof the Vendor hereby acknowledges) the Vendor as  
beneficial owner hereby grants and conveys unto the Purchasers ALL THAT AND  
THOSE the Scheduled Lands TO HOLD the Scheduled Lands with all appurtenances  
rights and easements thereunto belonging unto and to the use of the Purchasers as  
joint tenants in fee simple reserving as hereinafter provided.

AND IT IS HEREBY CERTIFIED that the transaction hereby effected does not form  
part of a larger transaction or of a series of transactions in respect of which the  
amount or value or the aggregate amount or value of the consideration exceeds sixty  
thousand pounds.

IN WITNESS whereof the parties hereto have hereunto set their hands and affixed  
their seals the day and year first herein written.



156 48

SCHEDULE ONE

PART I

No.	Date	Parties	Nature of Document
1.	7/8/1852	John Richards and Mountiford Longfield to Thomas Adair	Deed Poll
2.	18/6/1868	Thomas Adair	Grant of Probate
3.	25/5/1916	Hugh Adair	Grant of Probate
4.	27/6/1949	Thomas Louis Napoleon Adair	Grant of Probate
5.	23/11/1972	Laurence William Nicholson Homan and Richard Stewart Twigg to Mary Graves Homan	Assent
6.	18/7/1985	Mary Graves Dingwall (formerly Homan) to Samuel Robert Lyle	Conveyance
7.	8/4/1992	Samuel Robert Lyle to Reagalmac Limited	Lease

SCHEDULE ONE

PART II

No.	Date	Parties	Nature of Document
1.	23/11/1972	Lawrence William Nicholson Homan and Richard Stewart Twigg to Mary Graves Homan	Deed of Assent



- |    |            |                                                    |            |
|----|------------|----------------------------------------------------|------------|
| 2. | 14/12/1972 | Mary Graves Homan to<br>Shiela Anne Frances Jolley | Conveyance |
| 3. | 24/4/1990  | Shiela Anne Jolley to Samuel<br>Robert Lyle        | Conveyance |

SCHEDULE ONE

PART III

No.	Date	Parties	Nature of Document
1.	7/8/1852	The Commissioners for Sale of Incumbered Estates in Ireland one part, Thomas Adair, other part	Conveyance
2.	7/8/1878	Hugh Adair 1st part, Thomas Adair 2nd part, Matilda Adair 3rd part, Mary W. Adair 4th part, Margaret Adair 5th part, Rev. Hamilton B. Wilson 6th part	Conveyance
3.		Death of Thomas Adair	
4.		Death of Matilda Adair	
5.		Death of Hugh Adair	
6.	25/5/1916	Hugh Adair, Deceased Death of Thomas Louis Napoleon Adair	Grant of Probate
7.	27/6/1949	Thomas Louis Napoleon Adair Deceased Death of Constance Alice Adair	Grant of Probate
8.	23/11/1972	Laurence William Nicholson Homan and Richard Stewart	Assent

- Twigg, one part, Mary Graves  
Homan, other part
- |     |            |                                                                            |            |
|-----|------------|----------------------------------------------------------------------------|------------|
| 9.  | 14/12/1972 | Mary Graves Homan, one part,<br>Shiela Anne Frances Jolley, other<br>part  | Conveyance |
| 10. | 3/8/1979   | Shiela Anne Frances Jolley, one part,<br>Norman Stanley Jolley, other part | Conveyance |
| 11. | 4/8/1979   | Norman Stanley Jolley to Samuel Robert<br>Lyle                             | Conveyance |

#### SCHEDULE TWO

##### PART I

ALL THAT part of the laneway situate in the Townland of Gortalowry, Parish of Derryloran, Barony of Dungannon Upper and County of Tyrone coloured green on the Map attached hereto subject to all rights of way over and along the said laneway and subject also to the lease listed at No. 7 in Part I of Schedule One. Reserving to the Vendor his heirs and assigns the right to connect into and maintain all pipes and services laid in or under the said laneway.

##### PART II

ALL THAT the two strips of ground in the Townland of Gortalowry Parish of Derryloran, Barony of Dungannon Upper and County of Tyrone being the lands conveyed by Deed of Conveyance listed at No. 3 in part II of Schedule One and edged red and coloured blue on the plan thereof attached to said Deed of Conveyance.

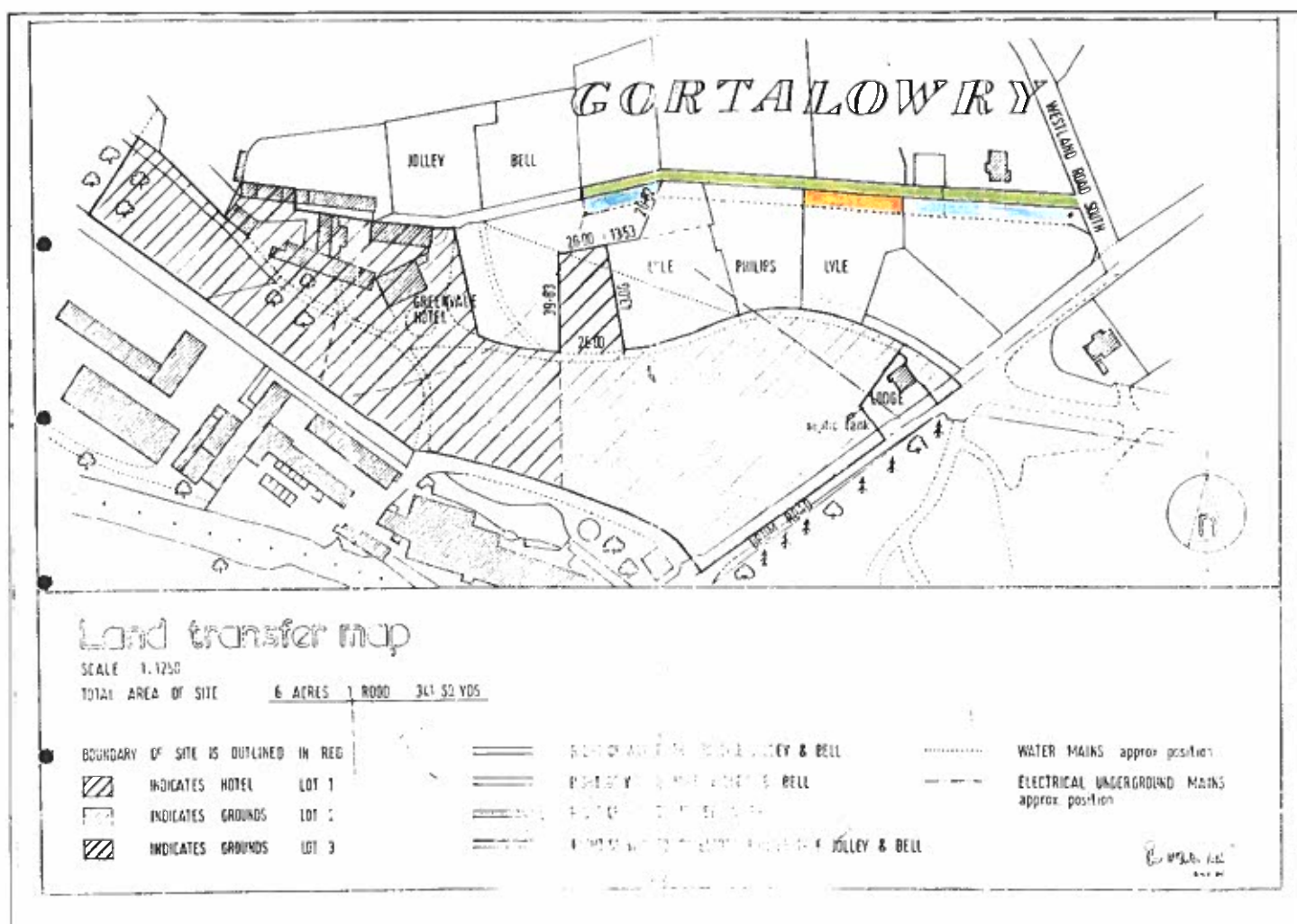
PART III

ALL THAT the strip of ground in the Townland of Gortalowry parish of Derryloran,  
Barony of Dungannon Upper and County of Tyrone more particularly delineated on  
the Map attached hereto and thereon coloured orange.

SIGNED SEALED and DELIVERED  
by the VENDOR in the presence  
of:



Philip W. Wm  
Solicitor  
Cookstown



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

Planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- the cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- the cluster appears as a visual entity in the local landscape;
- the cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads;
- the identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- development would not adversely impact on residential amenity.



