



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2015/0782/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Change of Use to Storage and Distribution Unit - (Class B4) (Additional information received in relation to the proposed access)	<b>Location:</b> Site 60m North of 52 Ballymoghna Road Magherafelt
<b>Applicant Name and Address:</b> Cloane Properties Ltd 9 Cloane Road Draperstown BT45 7LW	<b>Agent name and Address:</b> Kevin Cartin Architects Ltd Unit 5 Belmont Office Park 232-240 Belmont Road Belfast BT4 2AW
<b>Summary of Issues:</b>  No further objections have been received in respect of this proposal since the the application was previously presented to Committee.	
<b>Summary of Consultee Responses:</b>  Following the final consultation with Transportni on 18th September 2018 Council have been advised DfI Roads have reviewed the Roads Access Statement and will not offer an objection to the proposed development subject to the suggested conditions. EHD requested a noise report which was found to be acceptable.	
<b>Description of the proposal:</b>  The description as stated on the P1 form is 'Change of use to a storage and distribution unit – (Class B4)'. Within the Planning (Use Classes) Order (NI) 2015, Use Class B4 is stated as 'Use for storage or as a distribution centre.'  Although the site layout and detailed floor plans only relate to the existing enclosed yard which contains the industrial type building and the security hut, it should be noted that the site location map includes the existing concrete yard, industrial type building and security hut, all of which are enclosed within a secure yard in addition to also including two separate areas of agricultural land	

and two dwellings and their associated out buildings. Therefore the proposal is effectively for a change of use for all lands within the red line.

### **Characteristics of Site**

The site is comprised of two dwellings with associated garage and amenity spaces, a large industrial type shed set within a concrete yard to the rear of the dwellings with an agricultural field to its rear in addition to part of a second agricultural field fronting onto the Ballymoughan Road.

The site set to the rear of two dwellings on the Ballymoughan Road and is accessed via an existing laneway which runs between the two dwellings. The site contains a large industrial type building measuring approximately 35.7m x 18.6m with an eaves height of 6.0m and a ridge height of 7.2m. There is a small rear annex to the rear south-eastern corner. There is a small security building located at the south western side of the entrance gates which are located at the north-western end of the access laneway.

The existing industrial type buildings are set within a large concrete yard which is enclosed and well screened by a mature hedgerow along the south western boundary.

The existing large industrial building within the concrete yard was originally approved under application H/2009/0519/F as 'Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghán Road (retrospective)' on 10.03.2010. This building is currently being used as a storage and distribution centre by Teknos as a paint distribution centre. There is a small office in the front, south eastern corner with kitchen and toilet facilities located in the rear north-western corner. The remainder of the building is being used to store paint on pallet racking and is currently well stocked with large 20/25 litre drums of paint.

An employee stated at the time of site inspection that deliveries are made to the store and then forwarded on to customers by courier. At the time of site inspection, there were three staff present but no customers. However, there was a courier van, Fastway Couriers, arrived during this time. There was one company Ford Transit van and one car in the car park at this time.

### **Characteristics of Area**

The site is located in a rural area which is predominantly farmland with dwellings dotted along the road on both roadside sites and also set back off the road. At this location, there are four dwellings with a number of associated outbuildings, all of which access the Ballymoughan Road at the same point as the subject site.

### **Planning History**

Planning approval was granted under H/2009/0519/F on 10.03.2010 for 'Proposed shed for storage of vintage cars ancillary to the existing dwelling at 54 Ballymoghán Road (retrospective)'. A condition of that approval was that 'The shed hereby approved shall be used only for domestic purposes ancillary to No 54 Ballymoughan Road, Magherafelt.  
Reason: To prohibit an unacceptable change of use.

### **Deferred Consideration:**

This application was initially presented to Committee on 9th January 2017 with an opinion to refuse 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 CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse would, if permitted; unduly affect the amenities of nearby residents; the nature and scale of the proposed non-residential use is not appropriate in this countryside location; and access to the public road will prejudice road safety.

3. The proposed development is contrary to PPS 3 - Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

The application was deferred for an office meeting with the Planning Manager to consider alternatives and the issue relating to the proposed access arrangements. That meeting took place with Dr. Boomer on 25th January 2017 and was attended by the applicant, his agent, planning consultant and roads engineer.

The application was reconsidered in light of the deferred office meeting and was returned to Committee in June 2018 with a recommendation to refuse for the following reasons:-

1. The proposal is contrary to Policy CTY4 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the reuse would, if permitted; unduly affect the amenities of nearby residents; the nature and scale of the proposed non-residential use is not appropriate in this countryside location; and access to the public road will prejudice road safety.

2. The proposed development is contrary to PPS 3 - Access, Movement and Parking in that the proposed development would, if permitted, prejudice the safety and convenience of road users since visibility from the proposed access cannot be provided to an adequate standard.

The application was again deferred to allow the applicant to explore if there was way they could address the refusal reasons. A subsequent office meeting took place on 14th June 2018 and was attended by Dr Boomer, M Bowman (MUDC), Councillor B McGuigan, C Cassidy (agent), B Carey (Roads Engineer) and the applicant.

At that meeting the following was discussed:-

The question was raised if access could be achieved in a different way adjacent to No 52. The red line didn't include these lands / some discussion followed about the actual ownership of this piece of land – it was agreed the P1 was correct.

The meeting also considered what the minimum splays were that could be achieved – BC was of the view that the minimum DCAN 15 figures were achievable if we could agree the exact road edge.

In order to take the case forward and clarify the above it was agreed a site meeting would be arranged with DFI to establish and agree the road edge.

A site meeting was held on 17th July 2018 and was attended by M Bowman (MUDC), A Alderdice (Roads) and C Cassidy and B McMullan (agent). The purpose of the site meeting was to agree the exact road edge. This was agreed by all parties and in doing so it was accepted by A.A that the min required splays could be achieved. A.A requested that a site survey / plan be submitted to clearly show what was available and to detail splays to both sides.

The required plans were submitted and following consideration by DfI Roads, A Alderdice advised that DfI Roads would not offer an objection subject to the suggested condition and informatives.

In relation to the impact on residential amenity, Environmental Health have not raised any issues regarding noise, therefore, the only potential to impact on residential amenity would be from disturbance from traffic attempting to access the site. However, as DfI Roads have now accepted that the access is acceptable and will not prejudice road safety, I am now of the opinion that there will be no detrimental impact on the residential amenity of neighbouring properties.

As the refusal reasons previously presented to Committee in June 2018, have now been resolved, the proposal is considered to be acceptable and can be recommended for approval subject to the conditions listed below:-

**Conditions:**

1. This approval is effective from the date of this decision notice and is issued under Article 55 of the Planning Act (Northern Ireland) 2011.

Reason: This is a retrospective application.

2. The change of use of the premises hereby approved shall be used only for Use Class B4: Storage and Distribution, and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015 and shall be operated in conjunction with the applicant's farm business.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order and to ensure that the storage unit continues to operate as part of the farm diversification scheme.

3. The works detailed on drawing no.09 date stamped 12th September 2018 to provide visibility splays of 2.4m x 54m in a westerly direction and 2.4m x 45m in an easterly direction shall be completed within 2 months of the date of this decision and shall be permanently maintained thereafter. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

**Signature(s):**

**Date**



## 2<sup>nd</sup> Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2016/0848/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed Dwelling and Garage under CTY 2a	<b>Location:</b> 24M North of 93 Five Mile Straight Bracaghreilly Maghera
<b>Applicant Name and Address:</b> Colm Lynn 4 Orchard Way Portglenone	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  <p>Summary of the issues raised in the objections are as follows:</p> <ul style="list-style-type: none"> <li>- Primary issue over the ownership of the laneway down the west of proposed site, the applicant included it as part of his initial red line. However issues raised that this laneway is under the control of No. 93 and 95, in that permission has not been sought or gained for use of the laneway. In addition to this stated that permission would not be granted therefore requiring a long laneway to the road, which will deteriorate the existing amenity and visual character of the area.</li> <li>- Both objections raised an issue that this application is for a two storey house, one referring to Regional Planning Policies: Policy DES 6 Rural Character, which is not in-keeping with the area as the neighbouring dwellings are either bungalows or storey and a half. From this the proposed dwelling would be unduly prominent and does not have the necessary natural boundaries that would be required to provide necessary enclosure as stated in CTY 13.</li> <li>- Reference was made to PPS 21 stating that planning permission for new dwellings in the countryside under a number of conditions, one of which is that of development is within a dispersed rural community. As per the Magherafelt Area Plan 2015, the proposed site is not within a dispersed rural community.</li> <li>- Continued to say that CTY 2a of PPS 21 allows for a “clachan” style development of up to 6 houses at an identified focal point such as a social/community building/facility or is located at crossroads. Stated that the identifying the Lisnamuck crossroads is incorrect, in that the existing dwellings are not built around the crossroads. They are located some distance from the crossroads which are separated by agricultural fields meaning this is not a cluster and does not appear as a visual entity in the landscape. From the dwellings positioning being currently spread out in small groups means they do not form a cohesive cluster.</li> <li>- As per CTY 2a the proposed development does not bound on at least 2 sides with other development within the “cluster”. The proposed development is only bounded at the rear with No.</li> </ul>	

93 but the remainder of the boundaries are bounded by agricultural fields. Any development therefore would visually intrude on the landscape and will create a ribbon of development which is contrary to PPS 21 policies CTY 8 and 14.

- Issue raised that the proposed dwelling is located extremely close to the boundary of No 93 and from this has the potential to diminish the amenity of this property.

- Finally the proposed development will become a prominent feature in the landscape as it also lacks long established natural boundaries which means the inability of providing a suitable degree of enclosure to allow integration. One final point that the understanding was that the land was zoned for agricultural uses and not residential.

Reviewing the issues raised in the objections, the first issue has since been dealt via the submission of an amended red line reducing it to no longer include the laneway. However the resulting need for a proposed laneway to the dwelling is an issue, however since this is an outline application, details of such have not been provided and would be dealt in the reserved matters application. As a result this issue is noted but cannot be considered at this early stage. Both objectors raised concerns that the proposed dwelling is to be two storey, however in reviewing the file there has been no reference or plans stating this. Again since this is an outline application the size and design details have not been submitted therefore I am unsure where this issue has derived from. As a result and on the basis of the information provided this concern cannot be considered. One objector made reference to Policy DES 6 Rural Character, however this policy has since been superseded by Planning Policy Statement 21 and is already being considered under this policy. Therefore no additional weight is given to the concerns with Policy DES 6 Rural Character. Comments were made that this is not a dispersed rural community even though I agree with the comments made but again the applicant/agent has not put forward an argument for this therefore the application must be considered under CTY 2a which has been presented. The final issue raised referred to CTY 2a itself, however the application has already been reviewed under this and a recommendation has already been made.

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

#### **Description of Proposal**

This is an outline application for a proposed dwelling and garage under CTY 2a at 24m North of 93 Five Mile Straight, Maghera.

#### **Characteristics of the site and environs**

The site is located approximately 2.5km south west of Glen, in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is identified as 24m North of 93 Five Mile Straight, the red line however has extended into two fields with a site marker identified above 93 Five Mile Straight. Both fields included in the red line are agricultural fields which are relatively flat and are bounded with post wire fencing with hedging and trees along the boundaries. An amended location plan was submitted prior to objection letters being received, stating that the previous plan was incorrect and the applicant did not have a right of way over the laneway. The amended plan therefore removed the laneway from the red line.

#### **Representations**

There were four neighbour notifications sent out, in which two objections were received.

### **2<sup>nd</sup> Deferred Consideration:**

This application was presented before the Planning Committee in February 2017 with a recommendation to refuse based on the following 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.

2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
- the identified site is not bounded on at least two sides with other development in the cluster;

3. 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 ribbon development along Five Mile Straight, and does not represent a gap site.

The application was deferred for an office meeting with the Planning Manager which was held on 16th February 2017.

Following the deferred office meeting the agent provided additional information which was duly considered before the application was returned to Committee on 8th January 2018 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 identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;
- the identified site is not bounded on at least two sides with other development in the cluster;

3. 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 ribbon development along Fivemile Straight, and does not represent a gap site.

The Committee agreed to a second deferral for one month for the submission and reconsideration of additional information. However, to date no additional information has been provided and subsequently the application is being returned to Committee with a recommendation to refuse for the same 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 CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:

- the identified cluster is not associated with a focal point such as a social or community building/facility or at a crossroads;



- the identified site is not bounded on at least two sides with other development in the cluster;

3. 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 ribbon development along Five Mile Straight, and does not represent a gap site.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2016/1513/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed erection of new store and 1 no. residential apartment	<b>Location:</b> 2 - 4 Glen Road Maghera
<b>Applicant Name and Address:</b> Mr Peter McKenna 2 - 4 Glen Road Maghera BT46 5AW	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Issues:</b> Scheme has been reduced from two to one residential unit to ensure policy considerations have been met.	
<b>Summary of Consultee Responses:</b>  No objections. TNI have provided informatives.	
<b>Characteristics of the Site and Area:</b>  The proposal site is located within the town centre of Maghera. The siting is to the rear of an existing public house within the existing yard area. At present there are 4 storage sheds within the site which is all within the existing yard area of the public house. There is an existing laneway running along the Western boundary which serves several residential properties and businesses. There are residential properties directly opposite the site on the Western side which sit at a higher level, these properties are 2 storey and have off street parking. Immediately adjacent to the northern boundary is the Glen Road and further residential properties.	

**Description of Proposal**

Full application for 'Proposed erection of new store and 2 no residential apartments to rear of existing premises'.

**Deferred Consideration:**

The application was deferred at Committee and an office meeting held with Dr. Boomer on 14 June 2018.

Following this meeting the proposal has been reduced from store and 2 residential units to 'Proposed erection of new store and one residential unit'.

In the original proposal one of the existing sheds was to remain on site, which will now be demolished, allowing the apartment to be re-located closer to the road giving some level of amenity space to the rear, where previously there had been no amenity space.

The front elevation now denotes one residential unit and remains more in keeping with the existing streetscape than the two units previously proposed. It has a positive relationship with the existing street frontage. The development will make a positive contribution to Maghera in line with relevant policy requirements.

The refusal reasons have been adequately overcome and policy has been met, with approval now recommended.

**Conditions**

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.

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



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2016/1793/F	<b>Target Date:</b>
<b>Proposal:</b> Housing development of 18 detached dwellings, associated site works and landscaping (amended layout plan)	<b>Location:</b> Lands opposite (South East) of 17-31 Benburb Road Moy
<b>Applicant Name and Address:</b> Chris Traynor 84 Armagh Road Dungannon BT71 7JA	<b>Agent name and Address:</b> McCreanor & Co Architects 85 Plantation Road Craigavon BT63 5NN
<b>Summary of Issues:</b> Housing development which is now in accordance with Policy.	



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

The application site is a 1.1 hectare parcel of undeveloped land cut out of a larger field and located opposite and South East of number 17-31 Benburb Road, Moy. It is within the development limits of Moy as designated in the Dungannon and South Tyrone Area Plan 2010 (DSTAP). The site is relatively flat and low lying, albeit there is a slight slope towards the NE boundary. The roadside boundary with the Benburb Road is void of any vegetation and is defined by a simple wire and post fence and grass verge. The NE boundary is defined by a high hedgerow and intermittent semi mature trees. The remaining boundaries are undefined on the ground.

This area is predominantly residential in character. Opposite the site are a row of detached dwellings on fairly generous sized plots and to the SW of the site is a housing development of detached dwellings "Clover Hill". There is a GAA playing field (zoned as existing recreation and open space) located further to the SW of the site and there is a Primary School to the NW of the site. To the immediate NE of the site is a Presbyterian Manse and to the East is a large detached dwelling. The River Blackwater flows to the SE of the site, along which is a designated Local Landscape Policy Area. Part of the site falls within a designated flood plain and the small section

of the NW corner of the site is located within an Area of Archaeological Potential (TYR 062:011). There is a Listed Building (St John the Baptist RC Church) located to the North of the site.

### **Description of Proposal**

This is a full application for a housing development of 18 detached dwellings, associated site works and landscaping. An application for 39.5km of pipeline (M/2008/0997/F) to transfer drinking water cuts through the site and was approved on the 7/12/09. There are no other relevant planning histories on the site to be considered in this assessment.

### **Deferred Consideration:**

A meeting took place with the applicant on the 10<sup>th</sup> Aug 2017 following a deferral of this application at a previous Committee meeting.

I subsequently visited the site in Aug 2017 and suggested that the following amendments be made to the proposed layout:

- Drop end unit to better respect building line and provide a softer 'open space' area there
- Suitably Double front the HT7 which is then left as the first unit along this row.
- Buffer to soften up edge of development to southern edge
- A notional pedestrian link from the development to the river to be shown

Amended plans were received on the 28 Feb 2018 and later PSD drawings which have been approved to the satisfaction of DFI Roads. These better respect the building line created by site Ns 1-6 along the Benburb Road and HT6 has been appropriately designed to provide a double frontage to the road and internal development road. A landscaped buffer is detailed at the southern edge of the site. A pedestrian link is noted on plan to provide pedestrian access to the river to the west of the site. I consider the proposal to respect the character of the locality and settlement by fronting detached units towards Benburb road, this is whilst acknowledging the set back and elevated arrangement of a mixture of design and house types opposite.

Whilst local objection had been received as summarised within the original officer's report, one further letter of objection has been received from No 25 Benburb Road since amended plans were notified to interested parties. This objection raises the following concerns:

1. That the ambience of the Moy should not be ignored, many visitors enjoy the historic village square and move thence along Benburb Road to the Castle and Blackwater battle site
2. The flood plain manifests itself yearly – this cannot be solved without moving the problem up river
3. The long term presence of badger setts requires to be referred to Badger Trust
4. Accident risk on Benburb Road – schools access and Church nearby increase accident potential.

In response:

1. I am satisfied that the form and density and degree of separation of the proposed development from the historic core of the Moy results in an acceptable and quality driven development.



2. No development is proposed within the floodplain and there are no objections from Rivers Agency
3. NED is content that badgers and their setts are highly unlikely to be impacted as a result of this proposal.
4. DFI Roads have approved all access plans

Examining the Policy requirements of PPS7 QD1 I am satisfied that the proposal, if approved, will represent the creation of a quality residential environment which is fully in keeping with the character of the area and surrounding development.

I note that NI Water at the time of consultation in Nov 2017 identified a capacity concern at the Moy WWTW.

SES have commented on the proposal as follows:

SES notes the response of NIW (27/07/2017) advising that WWTW are not available at present to serve this development. SES therefore requests that the applicant details an alternative method of foul water disposal for this development.

In response an on-site WWTW has been proposed and a discharge point located. SES have responded on the 25<sup>th</sup> Oct 2018 with no objections. Further Consent outwith Planning will be required from other Statutory Agencies in relation to this.

In considering the improvements of the amended scheme over that originally approved, I recommend that the application be approved subject to the below conditions.

#### **Conditions:**

1The 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 and any forward sight distance, shall be provided in accordance with Drawing No. 13/4 bearing the date stamp 14<sup>th</sup> June 2018, prior to the commencement of any other development hereby permitted. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

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

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

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

The Mid Ulster Council/Department hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No. 13/4 bearing the date stamp 14<sup>th</sup> June 2018.

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

6. The visibility splays of 4.5 metres by 90.0 metres in the south west direction, 2.4 metres by 70.0 metres to the north east direction at the junction of the proposed main access road with the public road, 2.4 metres by 90.0 metres in the south west direction, 2.4 metres by 70.0 metres to the north east direction at the junctions of the proposed minor accesses with the public road shall be provided in accordance with Drawing No's. 13/4 bearing the date stamp 14<sup>th</sup> June 2018, 15/1 bearing the date stamp 14<sup>th</sup> June 2018.

prior to the commencement of any other works or other 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 a satisfactory means of access in the interests of road safety and the convenience of road users.

7. The development hereby permitted shall not be occupied until the road works as indicated on Drawing No. 13/4 bearing the date stamp 14<sup>th</sup> June 2018 have been fully completed 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 pedestrian users.

8. All hard and soft landscape works 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 prior to the occupation of any part of the development in accordance with approved plans



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

9. None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details on Drawing No 11/1.

REASON: In the interests of public health.

10. A detailed Construction Method Statement, for works in, near or liable to affect any waterway as defined by the Water (Northern Ireland) Order 1999, must be submitted to NIEA Water Management Unit, at least 8 weeks prior to the commencement of the works or phase of works.

Reason: To ensure effective avoidance and mitigation measures have been planned for the protection of the water environment.

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

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

12. After completing any remediation works required under condition 1 and prior to occupation of the development, a verification report needs to be submitted in writing and agreed with Department. This report should be completed by competent persons in accordance with the Model Procedures for the Management of Land Contamination (CLR11). The verification report should present all the remediation and monitoring works undertaken and demonstrate the effectiveness of the works in managing all the risks and achieving the remedial objectives.

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

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

**Date 24/10/2018**



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/0628/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 60m West of 26 Ballydermot Road Bellaghy
<b>Applicant Name and Address:</b> Mr Declan Diamond 48A Deerpark Road Bellaghy	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toomebridge
<b>Summary of Issues:</b>  1. Summary of Issues including representations Two objections have been received in respect of this application and relate to the following:- <ul style="list-style-type: none"> <li>• History of the previous planning application on this same site;</li> <li>• Should a dwelling be approved on this site, the location of such a dwelling should be approximately 100m from the objectors dwelling and have a ridge height of 5.0m.</li> <li>• Inaccuracies in the supporting statement as this is a different site from H/2011/0211/F;</li> <li>• No neighbour notification letter received;</li> <li>• Inaccurate site location maps which show non-existing dwellings;</li> <li>• The site is not associated with a cluster as defined in CYY 2A with no focal point;</li> <li>• The proposal is also contrary to CTY 8 as it would result in ribbon development;</li> <li>• The size of the farm holding is not sufficient to consider it as being active;</li> <li>• No existing farm buildings nor existing farm laneway;</li> <li>• No need for a second dwelling on this holding;</li> <li>• The proposal would result in an erosion of rural character.</li> </ul>	
<b>Description of proposal:</b>  This is an outline application for a dwelling and garage associated with a farm holding, on a site 60m West of 26 Ballydermot Road, Bellaghy.	
<b>Characteristics of the site and area</b>	

This site is located within the rural countryside immediately West of and to the rear of 26 Ballydermot Road, Bellaghy. The red line of the site encompasses an agricultural field situated at the roadside and to the rear of an existing bungalow at No.26. The boundary between the site and No. 26 Ballydermot Road is defined by a post and wire fence and a 2.1m high close boarded fence. The north western boundary of the site consists of post and wire fence with partly 1-2m hedge, sparse hedging and some trees. The north eastern boundary consists of a thorn hedge approximately 3m high. There is a small cattle holding pen approximately 4m x 4m with a 3m cattle crush located mid-way along the north-eastern boundary. The southern, road frontage boundary is defined by a low cut thorn hedge.

### **Deferred Consideration:**

This application was presented before the Planning Committee in January 2018 with a recommendation to refuse based on the following 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.
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 and access to the dwelling is not obtained from an existing lane and no health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, as this is a proposed dwelling on a farm which would not be 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.

Following a discussion at that meeting the application was deferred for an office meeting with the Planning Manager. Dr Boomer held a deferred office meeting on 24th January 2018 which was attended by Councillors Milne and McGuigan with C Cassidy (agent), D Diamond (applicant) and M McCrystal – Planning officer.

At that meeting the following was discussed:-

- The applicant leased field 5/021/153/3 in 2016 for the purpose of single farm payment but did not lease this in 2017 and as his claim fell under the minimum of 3ha was not entitled to claim SFP.
- The applicant buys and sells stock and is a part-time farmer.
- There is a need to check the farm business ID number to establish if the business has been in existence for more than 6 years and that it is still active.
- The applicant's animals are currently housed in his uncle's shed until March 2018 when they will be out in the fields. The farm shed is located at 74A Oldtown Road.
- C Cassidy stated that there are no buildings on the applicant's farm holding but the applicant intends to erect a farm building.
- D Diamond stated that his father's address is 74 Oldtown Road. His mortgage is secured on his dwelling and the field to the rear.

- CB requested that a neighbour notification letter be sent to 27A Ballydermott Road as the occupant's objection letter states that they did not receive such. This will avoid any confusion as the file shows that a N/N letter was sent to that address.
- MMC to inspect the site and assess if it is reasonable to have an access to a dwelling extending along the point where the existing access to the field is located at adjacent to the applicant's own dwelling at 48A Deerpark Road. It is not a matter simply of whether or not the visibility splays can be achieved but is it reasonable to have an access to another dwelling at that point. If such an access is reasonable then an approval on this application would be unlikely.
- If a dwelling were to be located 100m west of no.26 this would be unacceptable as an approval on the current application site would create infill opportunities. Therefore the only location which could be considered acceptable would be immediately adjacent to the western side of no.26.

I inspected the site to the rear of no.48A Deerpark Road on 9th May 2018 and found the following:-

No.48A is a one-and-a-half storey detached dwelling, approved under Ref: H/2011/0211/F, set back from the road edge by approximately 27m with a detached domestic garage to the side/rear.

Although the dwelling would appear to have been constructed as approved, it has been repositioned on site, as has the access and the garage. In effect, the dwelling has been moved closer to the southern boundary whilst the access and garage have been moved to the northern side. There is a second access to the northern side of no.48A which has a separate access point and this leads to the agricultural field at to the rear of no.48A. This access, which is around 4.5m wide, was also approved to the southern side of the site but has also been repositioned. There is a mature hedgerow along the northern boundary of the lane and a low level laurel hedgerow planted along the boundary line with no.48A. Mid-way along this laneway there is an access onto the driveway of No.48A. The boundary between the private amenity space of no.48A, which extends 24m from the rear of the dwelling, and the agricultural field is defined by a post and wire fence with a newly planted beech hedge.

A similar situation exists a short distance, approximately 200m, to the north of no.48A where there is a laneway between no's 38 and 40 and which leads to a dwelling to the immediate rear of no.38.

In my opinion, it would be entirely reasonable and practicable to have an access to a dwelling at the point of the existing laneway and which would lead to a dwelling at the rear of no.48A. Such a dwelling would also be visually linked with and would be sited to cluster with buildings on the applicant's farm. A dwelling on this site could also be designed to respect the private amenity of No.48A and the new dwelling.

## **Conclusion**

As detailed above, in my opinion, it is entirely reasonable to have an access for a dwelling at the point of the existing agricultural access. Such an access can utilise the existing access point and laneway without impinging on the access to the existing dwelling at no.48A and the two accesses can be paired and run alongside other.

Therefore, I do not accept that there is a case for siting a dwelling away from this group of buildings at another location, where there are no existing buildings associated with the

applicant's farm business. I therefore recommend that the proposed development be refused for the reasons as stated below:-.

### **Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to 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 and access to the dwelling is not obtained from an existing lane and no health and safety reasons exist to justify an alternative site not visually linked or sited to cluster with an established group of buildings on the farm.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, as this is a proposed dwelling on a farm which would not be visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

**Signature(s):**

**Date**



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/0864/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and basement garage	<b>Location:</b> To the rear of 14-16 Morgan Drive Cookstown
<b>Applicant Name and Address:</b> Ms Anne Mulligan 80 Fairhill Road Cookstown	<b>Agent name and Address:</b> Don Sonner 26a St Jeans Cottages Cookstown BT80 8DQ
<b>Summary of Issues:</b>  Three representations were made from neighbouring properties no.10,14 and 16 Morgan Drive.  Issues raised included; -differing ground levels. -problems arising from building works. -visual impact -road safety -residential amenity -overlooking, loss of privacy, noise disturbance	
<b>Summary of Consultee Responses:</b>  All consultees responded positively without objection.	
<b>Characteristics of the Site and Area:</b>  The site comprises a long narrow strip of land approx. 20-25 metres wide and 150 metres long. It is situated to the rear of dwellings at Morgan drive and Woodglen Crescent. The site is accessed via Woodglen Crescent, where it ends to the rear of number 11. The land falls from the rear of the houses to the NW of the site before rising to the next field to the West, there is an area of trimmed grass approx. 5 metres wide directly to the rear of the houses and then a further strip of over	

grown grass land, trees and other vegetation approx. another 15 metres wide. There is a variety of property boundaries separating the Eastern boundary of the site to the rear of the houses, including timber fences varying from 1 to 2 metres in height.

The site lies within the settlement limit of Cookstown towards the Northern Boundary. The site is on the edge of the current residential area, there are a wide mix of house types of high density to the South and agricultural land to the North.

### **Description of Proposal**

The proposal seeks outline planning permission for a dwelling and garage.

### **Deferred Consideration:**

This application was presented before the Planning Committee in January 2018 with a recommendation to refuse based on the following reason:

1. The proposal is contrary to Policy QD1 of Planning Policy Statement 7, Quality Residential Environment in that the proposed development will conflict with adjacent land uses and result in an unacceptable effect on existing properties in terms of overlooking and loss of privacy.

Following a discussion at that meeting the application was deferred for an office meeting with the Planning Manager, Dr Boomer. This meeting took place on 24th January 2018 and was attended by the applicant, D Sonner (agent), planning officers – R McAllister and M McCrystal. At that meeting the following issues were discussed:-

- the recommendation and in particular the potential to have an adverse impact on the adjacent dwellings;
- the Agent advised that the site sits below the ground level of the adjacent dwellings;
- It was agreed that it would require another site inspection to check site levels and the potential impact;
- The applicant stated that her daughter owns part of the site. Consequently the applicant was advised that the Planning Application Certificate as completed was incorrect as this states the applicant owns the site. This needs to be rectified and the correct certificate submitted;
- It was agreed that the application would be held for 21 days after the amended certificate is received. Notice should also be served on the land owner of the laneway;
- MMC is to assess the position of the dwelling to the rear of 16 Morgan Drive and 9 Woodglen Crescent; and
- The Agent agreed to submit the amended planning application certificate.

An amended Planning Application Certificate was duly submitted and this states that notice was served on two separate parties as affected land owners.

I re-inspected the site on 15th August 2018.

The existing ground levels at the suggested position of the dwelling as indicated on the map ie. to the rear of 16 Morgan Drive, are approximately 4m below the ground levels of no.16. and continue to fall approximately another 2-3m towards a watercourse running along the north west boundary. The boundary between the site and no.16 is defined by a

mature hedge which effectively screens the rear of no.16, which it should be noted site around 4m above the site. There is a copse of mature trees to the north of the suggested dwelling position, which provides effective screening from the cul-de-sac at the end of Woodglen Crescent. The site sits within a narrow slither of ground wedged between the existing Woodglen Crescent and Morgan Drive developments and the H29 residential zoning to the northwest.

I note that the original case officer held the opinion that this is an outline application and therefore the details of the siting and design have not been submitted, although a plan showing an indicative position of the dwelling has been provided. The case officer was of the opinion that the proposal did not respect the surrounding context as it would require a long access laneway into the site. In this context, I am not convinced that the provision of a laneway into the site would in itself would be sufficient to render the proposal unacceptable. Given the characteristics of the site, this is probably the only way the site could be developed, other than having a dwelling located at the extreme northern end. That alternative itself would create problems with overlooking of the adjoining no.11 Woodglen Crescent, as it sits on a similar ground level and the site is much narrower at that point.

A further issue of concern for the case officer was that the proposal was considered to be unacceptable in that a dwelling on this site would result in overlooking and cause a loss of privacy. I disagree with these concerns, as given that the site levels are around 4m below the adjoining ground levels of no.16 Morgan Drive and as there is a mature hedgerow between the existing dwelling and the site, a dwelling could easily be designed with no windows next to no.16, which would avoid any overlooking or loss of privacy. In addition the applicant has applied for a dwelling with a basement garage, and therefore such a dwelling could be restricted to a maximum ridge height of 6.5m above finished floor level with an under-build limited to 0.45m above existing ground level. This would allow for a dwelling to be designed to take account of the sloping site levels with a basement garage on the lower northern side of the site. The ridge of such a dwelling would therefore be around 3.0m above ground levels of no.16 Morgan Drive.

It is acknowledged that the proposed access will result in the loss of some trees/shrubbery to provide the access, however, this can be covered by way of condition requiring details to be submitted as part of any reserved matters application and should be kept to a minimum.

Having considered all of the above, it is my opinion that the proposal is acceptable and should be recommended for approval subject to the following conditions:-

**Conditions :**

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



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

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

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

3. The proposed dwelling shall be sited in the area shaded green on the approved drawing no. 01 date stamped 23rd June 2017.

Reason: In the interest of residential amenity and to prevent overlooking.

4. Full particulars, detailed plans, existing and proposed cross sections and levels of the reserved matters required in Conditions 01 and 02 shall be submitted in writing to Mid Ulster District Council and shall be carried out as approved.

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

5. The dwelling hereby permitted shall be designed so as not to have any windows in the south eastern elevation.

Reason: To preserve the amenity and privacy of the adjacent residential properties and to prevent overlooking.

6. The dwelling hereby permitted shall have a ridge height of not greater than 6.5 metres above finished floor level with a depth of under-building between finished floor level and existing ground level not exceeding 0.45 metres at any point.

Reason: In the interest of residential amenity and to prevent overlooking.

7. A detailed scheme of structured landscaping for the site including along all boundaries, shall be submitted at Reserved Matters stage at the same time as the details of 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 the first available planting season after the occupation of the dwelling which is hereby approved.

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

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 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.

9. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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

<b>Signature(s):</b>
<b>Date</b>



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/1112/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Approx 60m West / South West of no. 5 Cloane Lane Cloane Five Mile Straight Draperstown
<b>Applicant Name and Address:</b> Danny Grant 19a Cloane Lane Five Mile Straight Draperstown BT45 7EL	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge Toome BT41 3SG
<b>Summary of Issues:</b>  Main issue related to criteria of (c) of CTY10 in that sheds on site need to be in existence for 5 years and following an deferred meeting the agent submitted evidence to prove this, and therefore the relevant criteria can now be met for a dwelling on a farm.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.32km east of the settlement limit of Moneyneany and it is located in the open countryside as defined by the Magherafelt Area Plan 2015. The application is for an outline dwelling and garage on the farm and on the site sits a small agricultural shelter. The site is located in a portion of a larger agricultural field, the field in which is bounded on all boundaries by a mix of mature hedging and trees. The surrounding area is predominantly agricultural uses with a scattering of farm holdings and dwellings.	

**Description of Proposal**

This is an outline application for a proposed farm dwelling and detached domestic garage. The site is located approximately 60m South/ South West of No Cloane Lane, Five Mile Straight, Draperstown.

**Deferred Consideration:**

Following an office meeting held on 14 December 2017, the agent submitted additional information to support the case for a dwelling on a farm under CTY10. The main issue relates to the siting of a dwelling in relation to existing farm buildings/sheds on the site and if it meets criteria (c) of CTY10 of PPS21, which requires the dwelling to be visually linked or sited to cluster with an established group of buildings on the farm.

It was agreed the agent would investigate if a CLUD was required for the sheds on the site. Ortho photographs submitted show the sheds on site are not built in April 2009, but there are shown on site September 2012. There would be 5 year immunity by September 2017 and therefore no requirement for the submission of a CLUD.

As it can be accepted the sheds have been on the site for over 5 years, and they can be visually linked to a dwelling on the site, they do now meet all the criteria of CTY10.

**Conditions**

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

Reason: Time Limit.

2. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by Mid Ulster District Council, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

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 Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster Council gives its written consent to any variation.

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

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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

<b>Signature(s):</b>
<b>Date</b>



## 2<sup>nd</sup> Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/1371/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed 2 Storey dwelling and domestic garage/store based on Policy CTY10 Dwelling on farms	<b>Location:</b> 130m South of 38 Tirgan Road Tirgan Moneymore
<b>Applicant Name and Address:</b> Mr Declan Connery 25 Tirgan Road Tirgan Moneymore	<b>Agent name and Address:</b> CMI Planners 38b Airfield Road The Creagh Toomebridge BT41 3SQ
<p><b>Summary of Issues:</b> A late objection was received the day prior to the Committee meeting on 2<sup>nd</sup> October and was copied to members in the Addendum to that meeting. The late objection relates to the following issues :-</p> <ul style="list-style-type: none"> <li>• The applicant is not involved in agriculture;</li> <li>• The applicant is not involved in the relatives farm business;</li> <li>• The site is on farmland owned by the applicants father since 2014, therefore it has not been in existence for 6 years;</li> <li>• The applicant does not own the sheep grazing the land;</li> <li>• There is no access from the existing laneway into the site and this should be from the Craigmores Road.</li> <li>• No.38 is not vacant;</li> <li>• The trees providing the integration for the site are owned by the objector;</li> <li>• There was no attempt to engage with the objector following the deferred office meeting and the objector should have been alerted to the change of opinion to allow further representation to be made;</li> <li>• There is no apparent consideration of the objectors case;</li> <li>• The deferred recommendation appears to run contrary to the Judicial Review in the Lamont case;</li> <li>• The proposal is contrary to policy; and</li> <li>• The objector requests a further adjournment to allow the objector to engage with the Planning Department.</li> </ul> <p>In relation to the issues raised above;</p>	

- The applicant has provided clear details of his farm business ID no., herd no, flock no. and receipts and therefore it is accepted he is involved in agriculture;
- The applicant does not have to be involved in his relatives farm business;
- Policy CTY10 requires the farm business stated on the P1C to be active and established for more than 6 years. DAERA have confirmed this is the case;
- The applicant does not have to own the animals grazing his land;
- There is a clear access from the existing laneway into the site which is shown on the location map. The fact that there is also access to the farm lands via the Craigmole Road is irrelevant;
- If no.38 is occupied, this does not alter the consideration and no prejudice is caused as the objector has been aware of the application;
- The trees to the rear of the site are clearly within the ownership of the applicant and or his father and this is evident by way of land registry maps obtained by Council;
- As the objector only raised the issue of the proposal not being sited with existing buildings on the applicant's farm, further contact with the objector was not considered necessary following the deferred office meeting;
- The issue raised by the objector was fully considered by the initial case officer and in the deferred report;
- The proposal is a different scenario from the Lamont Judicial Review case as that was based on a site which was located beside a single farm building when there was an alternative group of buildings available. There are no farm buildings available on this holding;
- The issue relating to planning policy is considered in the report below.

#### **Summary of Consultee Responses:**

Environmental Health, DAERA and NI Water responded positively. DfI Roads advised that increased visibility splays of 2.4m x 70m are required and not the 2.4m x 45m as shown. However, this can be dealt with by way of condition.

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

The site is located approximately 2.75 miles south west of Desertmartin in open countryside in accordance with Magherafelt Area Plan 2015. The site outlined in red consists of an agricultural field set back 150m from the Tirgan Road. No 38, a large two storey dwelling and garage abuts the site along the northern boundary and Tirgan Hall is located 30m north east of the site. The site gradually rises from north to south and is bound by a vegetation along all boundaries. Access to the site is obtained via an existing shared laneway which wraps around the rear of No 38.

The surrounding area is characterised by an undulating landscape. The predominant land use is of an agricultural nature.

#### **Description of Proposal**

The application seeks outline planning permission for a detached two storey dwelling and garage on the farm.

#### **Deferred Consideration:**

This application was presented before the Planning Committee in August 2018 with a recommendation to refuse based on the following 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 the established group of buildings adjacent to the farm holding at No. 25 Motalee Road, Magherafelt.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed two storey is a prominent feature in the landscape and the proposed building fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

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

Following a discussion at that meeting the application was deferred for a meeting with the Planning Manager, Dr Boomer. This meeting took place on 16th August 2018 and was attended by C Cassidy – agent and planning officer M McCrystal. At that meeting the following was discussed:-

Dr Boomer advised that the applicant needs to show how he has been investing in the farm holding. This can be done through providing receipts/invoices for work done on the farm or materials purchased for use on the farm. The issue relating to the applicant's relative currently farming the holding was discussed and also the distance which exists between the site and the relative's main farmyard which is 5-6 miles. The distance between the applicant's current address and the site was also discussed, which is ½ mile.

CC explained that the applicant has obtained his own farm business ID no. and a sheep flock no. They are content to move the site of the dwelling closer to no.38 and the existing shed as a dwelling on this portion of the site would achieve better integration and also make use of the backdrop of mature conifers trees.

Dr. Boomer asked if there are any existing buildings on the farm holding and C Cassidy advised that there are no existing buildings and the proposed dwelling would be the first.

C Cassidy advised that he understood the ramifications if this were not the case and accepted that the proposed dwelling was being located at this location as it is an acceptable site in terms of integration where there are no existing farm buildings. He also undertook to provide evidence of how the applicant is investing in the farm.

### **Additional Information submitted**

The applicant submitted original copies of invoices, dated from March 2016 through to August 2018, for materials purchased for the farm business and for work done on the holding. Copies of these are retained on file.

### **Reconsideration**



Under the provision of Section 6 (4) of the Planning Act (NI) 2011 the determination must be made in accordance with the Plan unless material considerations indicate otherwise.

The Strategic Planning Policy Statement (SPPS) provides a regional framework of planning policy that will be taken account of in the preparation of Mid Ulster Council's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9 as these policies are cancelled by the introduction of the SPPS.

The proposal accords with PPS 21 insofar as it is for a site for a dwelling in the rural area and is linked to an established farm business.

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

CTY 10 – Dwellings on Farms which states that planning permission will be granted for a dwelling house on a farm where all of the stated criteria are met:-

- (a) the farm business is currently active and has been established for at least 6 years; The applicant's father purchased the farm holding in recent years. This was previously owned by the applicant's uncle (the objector). The applicant has subsequently applied for and has been granted a farm business ID no. and a sheep flock no. The only issue in relation to these are that the applicant has not held these for the necessary 6 years, therefore they have applied for the dwelling using a relative's farm business ID no. The applicant's relative is stated as actively farming the land by grazing and DAERA have confirmed that the relative's farm business is both active and has been established for more than 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. A planning history check of the applicant's farm holding and the relative's farm holding have been conducted. Both have revealed that no planning approvals have been granted on either farm holding and no development opportunities have been sold off since 25th 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: demonstrable health and safety reasons or verifiable plans to expand the farm business at the existing building group(s).

In this case, the farm business ID no. given belongs to a relative, which technically means this is the farm being used. Thus to comply, the applicant should site with buildings on that farm which are site several miles away. No health grounds have been given for not locating there.

In examining integration and rural character, CTY 13 and CTY 14, the original case officers report refers to the site as being that part of the field which has the annotation 'Site' located in the southern section. I disagree with this assumption as I believe the word site has only been used to identify the area outlined in red in its totality. If the southern section of the field only was to be the chosen location for a dwelling, the applicant would

presumably have identified that area as 'preferred location' and possibly shaded that area. As the entire field is outlined in red, then that is the area which can be considered as forming the site. Whilst agreeing that the southern section of the field would not be acceptable for a two storey dwelling, the northern half of the field is and this is acknowledged by the case officer in their report. This can be covered by way of condition and an area shaded to identify the acceptable portion of the field. By clustering the dwelling close to existing buildings, this will avoid creating infill opportunities thereby preventing unnecessary future build-up issues. A couple of dwellings set to the rear of a community hall, is in my opinion, not alien to the rural landscape but is typical to rural form.

In my opinion, although there will be critical views of the proposed dwelling, these will only be localised and will be between no.34 and the entrance to Tirgan Hall. However, over this short distance, the mature conifer trees to the rear of the site in addition to the rising ground of Slieve Gallion will provide an acceptable backdrop for such a dwelling. As detailed above, the site, subject to a siting condition, will be able to provide an acceptable degree of integration for a two storey dwelling as proposed. In addition to the above, it is acknowledged that the proposed access is taken off an existing lane which leads to a vacant dwelling, a redundant dwelling and additional farm lands.

### **PPS 3 – Access, Movement and Parking;**

The proposed development includes the access being taken off the existing farm lane which serves a dwelling (no. 38), a redundant dwelling and additional farm lands.

Transport NI advised that the visibility splays required to the north will be 2.4m x 70m and not 2.4m x 45m as indicated on the site location map. They also advise that if Council wish to approve the application without receipt of an amended red line, the suggested condition should be attached to the decision. In my opinion, the proposed access will not have any additional impact on the landscape and is therefore considered to be acceptable.

### **Recommendation**

On consideration of the above, and in applying the policy tests, in my view the only failure is that it does not cluster with existing buildings on the farm. This is a test which should not easily be set aside. However, there will always be justification for making exceptions outside of the stated policy. In my opinion, the fact that this provides a dwelling for a young part-time farmer to set up on land owned by his father is a consideration. Given that they do not own lands around the applicant's father's dwelling, this is not a potential location. Also, the distance from the buildings on the farm holding of the relative whose agricultural business ID no. has been used as stated, is several miles away. Therefore I do not feel that this offers a practical location for this applicant to tend his land. As the issues of integration and build-up are resolved in the conditions suggested below relating to siting, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

### **Conditions**

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

ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

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

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

3. The proposed dwelling shall be in the area shaded green on the approved plan date stamped received 12th February 2018.

Reason: To ensure that the development hereby approved clusters with the existing buildings whilst avoiding creating an infill opportunity and a tendency to ribboning in accordance with the requirements of 'Building on tradition – A Sustainable Design Guide for the Northern Ireland Countryside.'

4. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

5. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

6. The dwelling hereby permitted shall have a ridge height of not greater than 8.0 metres above finished floor level, designed and landscaped in accordance with the Department of Environment's Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

7. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: To ensure that the proposal is in keeping with the character of the rural area.

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

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

9. The dwelling hereby permitted shall not be occupied until all new boundaries have been defined by a timber post and wire fence with a native species hedgerow with trees and shrubs of mixed woodland species planted on the inside.

Reason: To ensure the proposal is in keeping with the character of the rural area and in the interests of visual amenity.

10. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been submitted to and approved by Mid Ulster District Council, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

11. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

12. 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.

13. A plan at 1:500 scale (min.) 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 onto Tirgan Road in the interests of road safety and the convenience of road users, which meets the standards set out in PPS3 and DCAN15.

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2017/1685/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site of infill dwelling and domestic garage for residential purposes	<b>Location:</b> 60m South West of 72 Deerpark Road Castledawson
<b>Applicant Name and Address:</b> Mr P Keenan 49 Hillhead Road Toomebridge	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Consultee Responses:</b>  No objections received	
<b>Characteristics of the Site and Area:</b>  <p>The site is located approximately 2 miles south of Bellaghy in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 20m south of No 72 Deerpark Road and consists of a cut out portion of a roadside triangular shape field. The northeast and west (roadside) boundaries are defined by 2m high hawthorn hedge, the south and east boundaries are undefined. Approximately 550m south of the site works is under way to construct the A6 Castledawson to Toome Dualling Scheme</p> <p>The surrounding area is characterised by dispersed roadside dwellings, farm buildings and relatively flat landscape. The predominant land use is of an agricultural nature.</p>	
<b>Description of Proposal</b>  The application seeks outline planning permission for a proposed infill dwelling and garage	

**Deferred Consideration:**

An office meeting was held on 18th September 2018 with Dr.Boomer. There was no issue that is a continuous and substantial built up frontage which includes a line of 3 or more buildings with a road frontage on Deerpark Road.

A site visit was carried out in 25 September 2018 to ascertain if the gap to be infilled was an important visual break in line with CTY8.

The adjacent dwelling (no.72) to the site was approved under H/2014/0005/O \_ H/2014/0202/RM and is a large 2 storey detached dwelling with a separate garage. This dwelling is defined with hedging and wooden fencing and the boundary line depicted on the location map is not defined on the ground with any hedgerow, although there are 2 trees on either side of the laneway, which opens up views of this site. Although there is strong hedging along the Deerpark Road, the site can be visually linked with No.72 and its associated garage travelling from north to south.

The site, and the field it is set within, has a strong roadside boundary, and whilst providing a short visual gap, it would not be viewed as an important visual break, due to the dwellings on either side of it which are clearly visible from the Deerpark Road.

The plot size reflects the two plots on either side of site, approx 70m, however No. 78, to the south has a much smaller plot size and road frontage of 14m, and a restricted curtilage. It is however set within a larger plot used a field/grazing area and can be viewed as such, and if this was used as a frontage, increases it to 60m, more in keeping with the other plots.

There is also a large 2 storey detached dwelling opposite the site which has begun to change the character of this part of Deerpark Road, this development along with No.72, which is a substantial size dwelling and plot, means on balance I do not feel a dwelling on the site would cause a detrimental impact on the existing character of the area. Approval is recommended.

**Conditions**

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

Reason: Time Limit.

2. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been approved by Mid Ulster District Council, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

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 Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless Mid Ulster Council gives its written consent to any variation.

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

4. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2018/0041/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and garage - infill	<b>Location:</b> Approx 50m South East of 94 Kilrea Road Portglenone
<b>Applicant Name and Address:</b> Mr Raymond Henry 94 Kilrea Road Portglenone	<b>Agent name and Address:</b> MDF Architecture 11 Blackthorn Road The Brambles Newtownabbey BT37 0GH
<b>Summary of Issues:</b>  No issues have been raised in relation to this proposed development.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.5miles north of Innishrush within open countryside in accordance with the Magherafelt Area Plan 2015. The site outlined in red encompasses two agricultural fields and the smaller field is identified as the 'proposed site'. Both fields have a frontage onto the private laneway whilst the larger field also has a frontage onto the public road. There is a detached single storey building (No 94 Kilrea road) located immediately north of the site. The site boundaries are defined by mature trees and hedgerows and the proposed site is accessed via an existing access. The surrounding area is characterised by roadside dwellings and undulating landscape and the predominant land use is of an agricultural nature.	
<b>Description of Proposal</b>  The application seeks outline planning permission for a proposed infill dwelling and garage.	



**Deferred Consideration:**

This application was presented before the Planning Committee in July 2018 with a recommendation to refuse based on the following 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.
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 an infill opportunity and would, if permitted, result in the creation of ribbon development along this stretch of private laneway.
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 buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this stretch of laneway and therefore will result in a detrimental change to the rural character of the countryside.

Following a discussion at that meeting the application was deferred for an office meeting. The deferred office meeting took place on 19th July 2018 at which the following issues were discussed:-

In attendance:-

M Bowman – MUDC Planning  
M McCrystal – MUDC Planning  
P McGlone – MLA  
M Francey – Agent  
C Cassidy  
R Henry – applicant  
D Henry – Applicant's son

MB asked where the frontage is regarded to be as there appears to be two frontage.

CC advised that dwellings at no's 92, 94 & 98 all front onto the same laneway although this is dissected by a second laneway leading to the commercial yard. The laneway leading along the side of no.92 has always been there and is not a new laneway created for the purpose of this application.

PMG – All the dwellings and the business at this location are within the same family ownership. The entire development at this location reads as one frontage with little or no public perception from the public roadway.

MB – this will need to be reviewed in light of the revised site inspection.

Action – MMC to inspect the site with a view to assessing if the existing development can be regarded as being on one frontage and if the site is acceptable in this regard.

Following the deferred office meeting, I visited the site on 15th August 2018.

The site is undoubtedly bounded by two laneways, one extending along the southern boundary and leading to the Kilrea Road, while the second laneway runs along the rear of no's 98, 94 and continues past the end of the first laneway into the yard of no.90 from which the applicant runs a construction business. Although the area around the office building is concreted and may appear to form part of the yard, the access extends past and between the office building and a new dwelling built at no.92, into a separate compound to the south of these two buildings. In effect, the laneway could be regarded as continuing between no's.90 and 92 as no.90 fronts onto this area, which then leads past no.90 and into a separate compound area. If Committee were of a mind to accept that rationale, then in my opinion, a dwelling on the proposed site would be acceptable as it would be located within a continuously built up frontage of at least three buildings, ie. no's 90, 94 and 98. In that case a dwelling should be positioned to the rear of the site and in line with the existing dwellings at no.'s 94 and 94, thereby maintaining the existing building line. Given the mature boundary hedgerows around the site, there are no critical views of the site from the public road system. In these circumstances, a two storey dwelling with a ridge height of not more than 8.0m could achieve a satisfactory degree of integration on the site without any detrimental impact on rural character, provided it is sited within the small field to the immediate south of no. 94 and the existing mature hedgerow to the eastern boundary of that field is fully retained at its mature height.

## **Conclusion**

Given the above situation, it is my opinion that the proposed site could be considered as being acceptable and could be approved subject to the conditions listed below:-

## **Conditions**

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

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

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

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

3. The dwelling hereby permitted shall have a ridge height of not greater than 8.0 metres above finished floor level, designed and landscaped in accordance with the Department of Environment's Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

4. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

5. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

6. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: To ensure that the proposal is in keeping with the character of the rural area.

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

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

8. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been submitted to and approved by Mid Ulster District Council, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

9. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

10. 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.

11. A plan at 1:500 scale (min.) shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1.

Reason: In order for the applicant to create a safe access onto Drummard Lane which meets the standards set out in PPS3 and DCAN15.

**Signature(s):**

**Date**



## Deferred Consideration Report

<b>Summary</b>	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2018/0042/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Development for 1 house only	<b>Location:</b> 20m West of 15 Derrynoyd Lane Moneyneena Draperstown. Co. Derry
<b>Applicant Name and Address:</b> Aaron Kelly 2A Moneyneena Road Draperstown	<b>Agent name and Address:</b> Colm McGurk 33 King Street Magherafelt BT45 6AR
<b>Summary of Issues:</b>  Refusal - Contrary to CTY 1, 8 and 14 of PPS 21.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.47 km from Moneyneany and is defined to be in the open countryside as per the Magherafelt Area Plan 2015. The site is located in the eastern portion of a large agricultural field wherein the site has an undulating land form where the site rises from the roadside to the North West corner. The northern, eastern and south/south western boundaries are all defined by a mix of hedging with mature trees along the roadside. There are two dwellings to the east of the site identified as Nos 11 and 15, with another dwelling further west of the site. The immediate locality is characterised by residential development, with the wider surrounding area is characterised by agricultural land uses.	
<b>Representations</b>	

There were five notification letters sent out however no representations were received on this application.

### **Description of Proposal**

This is an outline application for development of 1 house only located at Derrynoyd Lane, Draperstown.

### **Deferred Consideration:**

This application was presented before the Planning Committee in July 2018 with a recommendation to refuse based on the following 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.
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 the Derrynoyd Lane.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted add to a ribbon of development and would therefore result in a detrimental change to the rural character of the countryside.

Following a discussion at that meeting the application was deferred for an office meeting.

The deferred office meeting took place on 19th July 2018, which was attended by M Bowman and M McCrystal MUDC and F Rainey (Agents), and at that meeting the following was discussed:-

FR contended that the building line as indicated on a new block plan (submitted for information) would set all dwellings back off Derrynoyd Lane. In addition to this a dwelling on the western part of the adjoining field would need to be set back behind this building line and to the centre of this part of the field so as not to intrude on the view from the front of the adjoining dwelling indicated as 'Building 1'. This would then result in such a dwelling being more central on the adjoining field which would render the eastern part of that same field unsuitable for accommodating a dwelling. The green shaded area on the map submitted would indicate the area unsuitable for development as a third dwelling.

It was accepted that on looking at the photos in the supporting statement and in particular Image 2, that there was a degree of visual linkage between the two dwellings at either end of the proposed gap. The right to a view from Building 1 is not a material consideration and this view is not protected by policy. The mature boundary to the SW of the site would have to be retained as it aids the integration potential of any dwelling.

The approved site (LA09/2015/0427/F) and its frontage length on the opposite side of the Derrynoyd Lane needs to be taken into consideration as this would be representative of the frontage lengths in the area.

It was agreed to inspect the site and give consideration to the issues raised above.

I visited the site on 15th August 2018 and am of the opinion that the site is a small wedged shaped site with a larger field to the west. The site has a road frontage of around 24m but gets wider towards the northern side. The larger field which is almost triangular in shape has a road frontage of around 118m but this tapers off into a point adjacent to the proposed site.

In essence, while the entire undeveloped frontage may appear to be large enough to accommodate more than two dwellings, given the overall shape of the field to the west of the proposed site, I am not convinced that more than two dwellings could be developed within this frontage, whilst respecting the existing built form.

At the deferred office meeting, the agent submitted a concept plan indicating the areas which could reasonably be expected to be developed. This concept also indicated the portion of the adjoining field, which due to its shape and tapering nature, would be unpracticable to accommodate a dwelling. Therefore, in this instance, it is my opinion that given the above circumstances, the gap between the existing buildings could accommodate up to two dwellings whilst respecting the existing development pattern along the frontage in terms of size, scale and plot size.

On approach along the Derrynoyd Lane from the east, there is a visual linkage between the existing dwellings at 11, 15 and 21 Derrynoyd Lane which frame the gap site. A dwelling on the proposed site would be visually linked with the existing dwellings and would be read as part of an existing ribbon. As a dwelling on this site would be read with the existing buildings and would be regarded as being within the existing ribbon, it would not have a detrimental impact on visual amenity or rural character. The existing mature boundaries around the southern, eastern and western boundaries are sufficiently strong to enable a single storey dwelling to integrate into the surrounding landscape.

## **Conclusion**

Given the above situation, it is my opinion that the proposed site satisfies the policy tests and can be approved subject to the conditions listed below:-

## **Conditions:**

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

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

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

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

3. The proposed dwelling shall be in the area shaded green & the proposed curtilage shall be restricted to the area shaded brown on the approved plan date stamped received 11 May 2015 and the remainder of the land within the red outline of the application site shall be retained as agricultural land.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of 'Building on tradition – A Sustainable Design Guide for the Northern Ireland Countryside.'

4. The dwelling hereby permitted shall have a ridge height of not greater than 5.5 metres above finished floor level, designed and landscaped in accordance with the Department of Environment's Building on Tradition Sustainable Design Guide for the Northern Ireland Countryside.

Reason: In the interests of visual amenity and to ensure the proposed dwelling is not prominent in the landscape.

5. The depth of under-building between finished floor level and existing ground level shall not exceed 0.45 metres at any point.

Reason: In the interest of visual amenity.

6. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels and referenced to a fixed point on the public road has been submitted to and approved by Mid Ulster District Council.

Reason: To ensure the dwelling integrates into the landform.

7. The roofing tiles or slates shall be blue/black or dark grey in colour and shall be flat and non-profiled.

Reason: To ensure that the proposal is in keeping with the character of the rural area.

8. No development shall take place until full details of all proposed tree and shrub planting and a programme of works, have been submitted to and approved by Mid Ulster District Council, and all tree and shrub planting shall be carried out in accordance with those details and at those times.

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

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

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



10. If any retained hedge/tree is removed, uprooted or destroyed or dies within 5 years from the date of the development hereby approved, becoming operational another hedge/tree or trees shall be planted at the same place and that hedge/tree(s) shall be of such size and species and shall be planted at such time as may be specified by Mid Ulster District Council.

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

11. 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.

12. A scale plan and accurate site survey at 1:500 (minimum) shall be submitted as part of the reserved matters application showing the access to be constructed and other requirements in accordance with the attached form RS1.

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

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0467/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and domestic garage for residential purposes	<b>Location:</b> 100m North East of 15 Ballydermot Road Castledawson
<b>Applicant Name and Address:</b> Mark Diamond 107 Ballymacombs Road Bellaghy	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Issues:</b>  Proposal fails to comply with all the criteria contained within Policy CTY2a of PPS21.	
<b>Summary of Consultee Responses:</b>  No objections	
<b>Characteristics of the Site and Area:</b>  The application site is a 0.45 hectare rectangular field located 100m NE of 15 Ballydermot Road, Castledawson. It is outside the development limits of any settlement defined in the Magherafelt Area Plan 2015. The site is relatively flat and all three boundaries are defined by thick hedgerow. A concrete laneway runs along the Eastern site boundary. This laneway is used to access several detached dwellings. There are 3 detached dwellings to the immediate North of the site, 2 of which front onto the Ballydermot Road and 1 which fronts onto Ballydermot Lane. To the West of the site is a detached dwelling and several ancillary outbuildings. There is no development to the immediate South of the site.  This area is generally rural in character. It has a low development pressure with the predominant form of development being single dwellings and agricultural outbuildings. The site is also partially in an area of archaeological potential (LDY042:026)	

**Description of Proposal**

This is an outline application for dwelling and domestic garage for residential purposes. A cluster concept plan has been submitted to be considered in this assessment. There are no relevant planning histories on the site.

**Deferred Consideration:**

Following the office meeting held on 19/07/18, where the issues relating to the proposal were discussed regarding Policy CTY2a. In terms of meeting this policy the main issue is if the junction could be accepted as a focal point that a cluster could be associated with.

Policy CTY2a states permission will be granted for a dwelling at an existing cluster of development provided certain criteria is met. One of this criteria includes the cluster to be associated with a focal point such as a social/community building, or Located at a cross roads. In this case there is no focal point and I feel also there is no cross roads. The road staggered opposite Ballydermot Lane is a concreted dead end laneway, and although it serves a number of existing dwellings, is not a road that could be included in definition of a 'crossroads' within the policy.

As it is not agreed the site consists of a cluster, then rounding off cannot be considered, therefore it is considered any development of the site will erode the rural character of the area.

The agent was offered the opportunity to submit a farm dwelling case, but has advised it is not a viable option in this case, so CTY10 cannot be considered.

Refusal is recommended as previously as the proposal is contrary to CTY2a.

**Refusal Reasons**

1. 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 consisting of 4 or more buildings of which at least three are dwellings;

the cluster does not appear as a visual entity in the local landscape;

the cluster is not associated with a focal point and is not located at a cross-roads;

the proposed site is not bounded on at least two sides with other development; and

the dwelling would if permitted significantly alter the existing character of the countryside.

**Signature(s):**

**Date**

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/0902/RM	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed One and a Half storey dwelling and garage with upper level office and associative site works as per outline approval LA09/2016/0065/O (amended address and plans)	<b>Location:</b> Site adjacent to 10 Derryloughan Avenue Coalisland
<b>Applicant Name and Address:</b> Gerard Mc Cann 20 Downshire Park Central Belfast	<b>Agent name and Address:</b> MMAS Second Floor Mew Mill Conway Mill 5-7 Conway Street Belfast BT13 2DE
<b>Summary of Issues:</b> Objections received relating to loss of amenity, revised plans submitted. Objectors have spoken on this application, applicant has not spoken on this application.	
<b>Summary of Consultee Responses:</b> Roads – advice	
<b>Characteristics of the Site and Area:</b>  With the exception of a new dwelling and garage located in the other (eastern) half of the large field from which the current site is cut there does not appear to be any other significant changes on site or in the immediate vicinity from the outline application on site, as such the characteristics of the original site and area by enlarge remain as per LA/2016/0065/O.  The site is located approx. 4 miles south east of Coalisland and is accessed from Derryloughan Avenue, a minor road off Derryloughan Road and within close proximity to Lough Neagh.	

Located some 200 metres from the junction with Derryloughan Road the site is flat and the levels within it similar to that of Derryloughan Avenue which runs along the southern boundary of the site.

The southern boundary of the site is defined by a low roadside hedge. The eastern boundary is undefined. The western boundary is defined by a post and rail fence. And the northern boundary by a low hedge.

To the west of the proposed site are 4 no. of dwellings one with some form of commercial activity evident.

To the east of the site located in the other half of the large field from which the current site is cut as aforementioned above is a relatively newly constructed dwelling and garage approved under outline application LA09/2016/0066/O and reserved matters application LA09/2016/1612/RM which were granted on the 31st May 2016 and 10th January 2017 respectively. Beyond this dwelling is two dwellings in tandem form.

On the opposite side of and on the immediate straight stretch of Derryloughan Avenue are 6 dwellings with the potential for at least one infill opportunity. Just beyond these dwellings after a bend in the road is another 3 dwellings including one at the very end of the Avenue bound by a no. of buildings/sheds.

The majority of the dwellings noted within the immediate vicinity are of bungalow appearance however 2 on the opposite side of the road (Derryloughan Avenue) to the site are one and half storey.

Views of the site are generally limited until passing along the roadside frontage of the larger field from which the site is cut due to its location within an existing line of development (dwellings) running along a straight stretch of road. Over a short distance when travelling along the Derryloughan Road to the north whilst on the approach to the junction of Derryloughan Avenue there will be views of the site, however these are long distant and limited by roadside vegetation.

### **Description of Proposal**

This is a reserved matters application for a dwelling and garage with upper level office and associative site works to be located on a site adjacent to 10 Derryloughan Avenue, Coalisland.

This proposal gained outline approval under outline application LA09/2016/0065/O on the 31st May 2016.

### **Deferred Consideration:**

Members are advised this application was before them last month as an approval, however there were objections from the neighbour and as such it was deferred to allow the parties to meet with the planning manager to try and find common ground. Dr Boomer met with Mr & Mrs McCanns, their architect and Mr & Mrs McGrath and explained there may be some degree of overlooking, but owners of the properties had a right to enjoy their own properties. Both parties were able to put forward their views as it was apparent they would be living beside each other and would not wish to have a fraught

relationship, the architect explained the rationale behind the design and that the neighbours were fully considered in the design of the property. From the discussions it was identified the issues relate to the downstairs living area window facing towards the objectors patio doors, the upstairs terrace at the back of the proposed dwelling overlooking the rear yard and the open boundary between the properties.

Amended plans were submitted which clearly show the provision of a native species hedge along the boundary, trellising along the remainder of the upstairs terrace and a reduction in the size of the living windows on the ground floor. The architect also provided a new window in the upstairs gable facing towards the road to conform with building regulations for fire escape windows. The dwelling is set back 30metres into the site and in line with the dwellings on either side as such I do not consider this window will have any significant impact on the amenity of any of the adjoining properties. The hedge can be allowed to grow to a height that will allow both parties to enjoy their properties without having any adverse impact on each other.

The amended plans were forwarded to Mr & Mrs McGrath on 15<sup>th</sup> October 2018 for their consideration. There has been no further comments on the plans at the time of writing the report.

As previously recommended I consider this development can be approved with conditions requiring landscaping along the boundaries and providing painting to be carried out and retained at the terrace.

**Conditions:**

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.

2. All proposed landscaping as detailed on drawing number 02 (Rev.04), bearing the date stamp received 15OCT 2018, shall be carried out during the first available planting season following the commencement 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.

3. The new hedges along all boundaries of the site shall be allowed to grow to and be retained at a height no less than 2 metres.

Reason: In the interests of residential amenity.

4. The trellis and planting on the upper floor terrace as shown on drawing numbers 04Rev1, 05Rev1 and 07Rev1 bearing the stamp dated 15 OCT 2018, shall be carried out during the first available planting season following the occupation of the development hereby approved. Any plants 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: In the interests of residential amenity.

5. The vehicular access, including visibility splays of 2.0m x 45.0m and any forward sight distance shall be provided in accordance with drawing number 02 (Rev.04), bearing the date stamp received 15OCT2018, 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.

### **Informatives**

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

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

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

4. Transport NI comments:

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

Notwithstanding the terms and conditions of the Councils approval set out above, you are required under Article 71-83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the Roads Service Section Engineer whose address is Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

Provision shall be made to the satisfaction of Roads Service, to ensure that surface water does not flow from the site onto the public road. In the interest of public safety and traffic management.

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

**Signature(s):**

**Date**



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2018/1148/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed construction of new vehicular access onto Old Eglish Road (Revised position)	<b>Location:</b> Dungannon United Youth Black Lane Mullaghanagh Dungannon
<b>Applicant Name and Address:</b> Dungannon United Youth c/o Joe McAree Black Lane Mullaghanagh Dungannon BT71 7AY	<b>Agent name and Address:</b> McKeown and Shields Associates Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Summary of Issues:</b> New access road which has some retaining structures.	
<b>Summary of Consultee Responses:</b> Roads – concerns regarding pedestrians	
<b>Characteristics of the Site and Area:</b>  Dungannon United Youth is an existing sports facility located at the corner of Black Lane and Old Eglish Road, Dungannon. The site contains an existing building which is finished with brown brick walls and a low pitch blue clad roof with a car park to the north side of it. The existing building sits approx. 5m above the level of Old Eglish Road and contains an indoor football pitch ther area and a number of temporary buildings along its east elevation used for changing facilities and a coffee dock/meeting room. The site also has a full size football pitch at a higher level to the east. Access to the site is by an existing lane off Black Lane.	

There are detached and semi-detached private dwellings between the application site and Black Lane. Windmill Integrated Primary School is to the south, on Old Eglish Road and it has a MUGA pitch between the school car park and the application site.

### **Description of Proposal**

The proposal is for the construction of a new vehicular access onto Old Eglish Road between the existing building and the Old Eglish Road, this will require a retaining structure and reorganisation of car parking areas.

### **Deferred Consideration:**

Members are advised this application was deferred at the Committee Meeting on 2 October 2018 as the access position has changed and had not been considered. The access position has been moved from the original position on the south side of the DUY building, between it and Windmill Integrated Primary School, to the west side of the side, between the DUY building and Old Eglish Road. The position of the revised access is a steep grassed bank that slopes from the existing building and car park down to the rear of a paladin fence that is set behind the footpath on Old Eglish Road. It has been advertised in the local papers and neighbours have been notified about the revision.

The revised position will be more visible from the Old Eglish Road, as it runs parallel to it, the access road is 92m in length and will slope up from the Old Eglish Road to the existing car park. The proposal includes retaining structures between the proposed access roadway and the existing building and between the access road and the Old Eglish Road. The retaining structures will be concrete walling and a concrete crib wall system topped by a vehicle restraint system (crash barrier). The crib system will be a maximum of 4.5m and a minimum of 1.4m. in height, with a length of approx. 49m, it will retain the existing car park and building, it will allow plants to be inserted which will assist in softening the impact of the development. It is also proposed to provide landscaping between the access road and the Old Eglish Road, which I consider will help to reduce the impact of the proposed development on the street scene. On the opposite side of the Old Eglish Road is agricultural lands and as such I do not consider the proposed access will have any significant adverse impact on those lands. The new access road will require the 11 car parking spaces to be moved 1 metre further into the car park, which can be easily accommodated and as such I do not consider there is any loss of car parking as a result of the proposal.

Roads engineers have considered the revised access position and have raised a concern in relation to pedestrian access to the site. They advise this will be a private road, not adopted by the Department and as such it would not be subject to the same strict standards in terms of design. Generally they would require a footpath to be provided along with the vehicular access and have indicated there may be a safety issue with this. Members are advised there is an existing pedestrian access from Old Eglish Road into the site at present, this access will still be in place and open at the same times as the vehicular access. I have no doubt that pedestrians will utilise the vehicular access instead of the existing pedestrian access, however there is alternative provision for them and the

traffic speeds will be very low along this small stretch of road. I consider these factors will limit the potential safety concerns that Roads Engineers have. Roads Engineers have not raised any issues of road safety with the development provided the visibility splays are put in place before it is used.

I consider the proposed development is acceptable and can be approved.

**Conditions/Reasons for Refusal:**

**Conditions**

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

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

2. Prior to the vehicular access hereby approved becoming operational, visibility splays of 2.4m x 60.0m and forward sight line shall be provided in accordance with the approved drawing No 02 Rev 2 bearing the stamp dated 05 OCT 2018. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

3. All hard and soft landscape works shall be carried out in accordance with the approved details as shown on drawing No 02 Rev 2 bearing the stamp dated 05 OCT 2018 and the appropriate British Standard or other recognised Codes of Practice. The works shall be carried out within the first planting season following the commencement of the use of the access hereby approved.

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

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

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

5. 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.

6. Prior to the commencement of the development hereby approved, a landscaping scheme for the crib retaining system shall be agreed with the Council. The landscaping scheme shall be implemented within the first planting season following the construction of the crib retaining wall.

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

### **Informatives**

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

2. The development shall not be (commenced/occupied) until a Certificate issued by a Chartered Structural Engineer certifying that the structure has been designed in accordance with the relevant standards and guidance, has been submitted to and accepted by DRD Roads Service. The certificate should state;

I/We certify all reasonable professional skill and care has been used in the design & check of the above named structure in accordance with the following design standards and advice notes

3. 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 Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge, or footway bounding the site. The consent is available on personal application to the DfI Roads Section Engineer whose address is Moygashal, Dungannon. A monetary deposit will be required to cover works on the public road.

4. 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.

5. Geotechnical activities which require Geotechnical Certification shall be submitted to Engineering Policy and Parking Services through the relevant Division. Geotechnical Certification shall be in accordance with the Department for Infrastructure's Geotechnical Certification procedures as laid down in the current version of HD 22 Managing Geotechnical Risk: Volume 4: Design Manual for Roads and Bridges.

**Signature(s):**

**Date**