



05 April 2022

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt and by virtual means Council Offices, Ballyronan Road, Magherafelt, BT45 6EN on Tuesday, 05 April 2022 at 19:00 to transact the business noted below.

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

Yours faithfully

Adrian McCreesh  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

#### Development Management Decisions

5. Receive Planning Applications 7 - 294

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2020/0615/O	Housing development at lands S of Annagher Road Coalisland	APPROVE

		(opposite Coalisland Na Fianna Club House and 156 Annagher Road Coalisland) for Harry Mc Clure..	
5.2.	LA09/2020/0850/F	Agri food processing unit within a portal framed building, weighbridge, car parking, HGV turning and parking, treatment plant and concrete yard with gates entrance at 140m NE of 21 Sandholes Road Cookstown for Wesley Hamilton.	REFUSE
5.3.	LA09/2020/1196/F	Extension to existing compost manufacturing facility at 10A Ferry Road, Coalisland for Evergreen Horticulture.	APPROVE
5.4.	LA09/2020/1557/F	Erection of 13 dwellings (11 Detached and 2 Semi detached) with garages and associated site works (revised plans) at lands to the rear and immediately W of numbers 18 and 20 Mullaghteige Road Bush Dungannon, for BOA Island Properties Ltd.	APPROVE
5.5.	LA09/2021/0031/F	Retrospective application for the storage of steel and assembly of steel sheds along with part storage of farm agricultural equipment at 70m SE of 32A Mayogall Road, Gulladuff, for Mr Daman Brown.	REFUSE
5.6.	LA09/2021/0185/O	Replacement dwelling SE of 31a Corvanaghan Road, Cookstown for Oliver Mc Kenna.	APPROVE
5.7.	LA09/2021/0451/F	Change of use of existing horse stable building to dog re-homing centre, retention of 2 modular buildings and provision of 1 dwelling house, at lands approximately 170m NE of 40 Ballynahaye Road, Ballynahaye, Ballygawley for Tyrone Husky Rescue.	REFUSE
5.8.	LA09/2021/0665/O	Dwelling & domestic garage at 80m E of 4 Valemount, Derryvale Road, Coalisland, for Mr Jeremy Morgan.	REFUSE
5.9.	LA09/2021/0684/O	Site for a dwelling and double domestic garage on a farm at 108m SW of 19 Annaghquin	APPROVE

		Road Cookstown, for Raymond and Linda Potter.	
5.10.	LA09/2021/0685/F	Whey protein concentrate (WPC) processing, storage and dispatch project at existing cheese processing factory including 2 chiller units, 5No. 100000L silos 2No. 150000L silos within a 3m high bund area and associated equipment and site works including acoustic fencing and lands at 141 Moneymore Road, Dunman Bridge, Cookstown for Dale Farm Ltd.	APPROVE
5.11.	LA09/2021/0871/O	Site for a dwelling and domestic garage at 110m NW of 140 Gulladuff Road, Bellaghy for Mr Paul Mc Erlean.	REFUSE
5.12.	LA09/2021/1011/O	Dwelling and garage at 110m NE of 65 Roughan Road Stewartstown, for Andrew Richardson.	REFUSE
5.13.	LA09/2021/1066/F	Cattle house and machinery shed at 148m NW of Junction of Hillside Road & Gorteade Road Swatragh for Mr PJ Lagan.	REFUSE
5.14.	LA09/2021/1104/F	Apartment 5 added to existing scheme with new window and door openings to yard elevation and side elevation at 34 High Street, Draperstown, for Cloane Construction.	REFUSE
5.15.	LA09/2021/1228/O	Site for dwelling on a farm to rear of 45 Kinturk Road Coagh Cookstown for Mr Brian O'Hara.	REFUSE
5.16.	LA09/2021/1319/F	Site of residential and mixed use development at 29 - 35 High Street, Draperstown for H V Property Developments Ltd.	REFUSE
5.17.	LA09/2021/1376/O	Site for a Dwelling and Domestic Garage (Amended Plans) at 50m N of 81 Desertmartin Road, Moneymore for Philip Hughes.	APPROVE
5.18.	LA09/2021/1531/O	Dwelling & domestic garage at lands 60m SW of 105 Ruskey Road, The Loup, for Columbo McVey.	REFUSE
5.19.	LA09/2021/1533/F	Retention of additional balance tank and associated site works at an existing effluent treatment	APPROVE

		plant at existing cheese processing factory (amended description) at lands at 141 Moneymore Road, Dunman Bridge, Cookstown for Dale Farm Ltd.	
5.20.	LA09/2021/1540/F	Retrospective application for part use of a domestic storage shed for the sale of general builders merchandise at approx. 13m NW of 5 Jacksons Drive, Gulladuff, for C & C Supplies.	REFUSE
5.21.	LA09/2021/1566/O	Farm dwelling & garage at approx. 65m N of 19 Moneygaragh Road, Rock, Dungannon for Mrs Patricia Toner.	REFUSE
5.22.	LA09/2021/1641/F	Replacement dwelling at approx 30m N of 6 Ruskey Road, Coagh, Cookstown for Mr Jim Mc Intyre.	REFUSE
5.23.	LA09/2021/1692/O	Renewal of Outline Planning Permission LA09/2018/1095 for infill dwelling and garage at lands between 14 and 24 Rossmore Road, Dungannon, for Ashley Fleming.	APPROVE
5.24.	LA09/2021/1700/O	Dwelling and garage at land off Pomeroy Road approx. 285m NE of 47 Kilmardle Road Dungannon, for Mr Robert Quinn.	REFUSE
5.25.	LA09/2021/1729/F	Dwelling & Garage (Infill site) at approx 40m S of 44A Sherrigrim Road Stewartstown, for Mr A Kelso.	REFUSE
5.26.	LA09/2021/1731/F	Extension to the existing cheese plant & alterations to roof profile of existing building at Dunmanbridge, 141 Moneymore Road, Cookstown for Dale Farm Ltd.	APPROVE
5.27.	LA09/2021/1768/DCA	Demolition of No's 29, 31 & 33 High Street Draperstown to allow for the re-development of the site for 2 offices & 3 apartments (LA09/2021/1319/F) at 29 - 35 High Street, Draperstown for H V Property Developments Ltd.	REFUSE
5.28.	LA09/2021/1808/O	Site of dwelling & domestic garage at Rear of 39 Gortahurk	REFUSE



		Road, Desertmartin, for Eoighan McGuigan.	
5.29.	LA09/2021/1809/O	Site for dwelling house and domestic garage adjacent and Western boundary of 182 Glen Road, Maghera for Miss Niamh Cavanagh.	REFUSE
5.30.	LA09/2022/0139/F	Single storey extension to the rear and side of dwelling with internal alterations at 12 Manor Close, Magherafelt for Sean & Sarah McNamee.	APPROVE
5.31.	LA09/2022/0171/F	Replacement extension to the rear of 116 Church Street, Cookstown, for Martin O'Hare.	APPROVE

6. Receive Deferred Applications

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	Planning Reference	Proposal	Recommendation
6.1.	LA09/2020/1476/O	Dwelling and garage between 21 and 23 Iniscarn Road, Moneymore for FJS Contracts Ltd.	REFUSE
6.2.	LA09/2021/0319/F	Change of house type from a detached (M/2004/0778/F ) to a pair of semi-detached on site 2, Opposite 114 Killyliss Road Eglisk Dungannon for T G Developers.	APPROVE
6.3.	LA09/2021/1272/F	Dwelling with single detached garage at lands S of 101a Cavankeeran Road Pomeroy for Mrs Arlene Phelan.	REFUSE

Matters for Information

7 Minutes of Planning Committee held on 1 March 2022

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

Matters for Decision

8. Receive Response to the Private Access on the A6 Toome By-Pass (Stopping Up) Order

9. Receive Report on Approach to Building Preservation Notices
10. Receive Enforcement Report

Matters for Information

11. Confidential Minutes of Planning Committee held on 1 March 2022
12. Receive Report on Findings of the Northern Ireland Audit Report - Review of the Planning System in Northern Ireland
13. Receive Caledon Regeneration Partnership Invitation
14. Enforcement Cases Opened
15. Enforcement Cases Closed

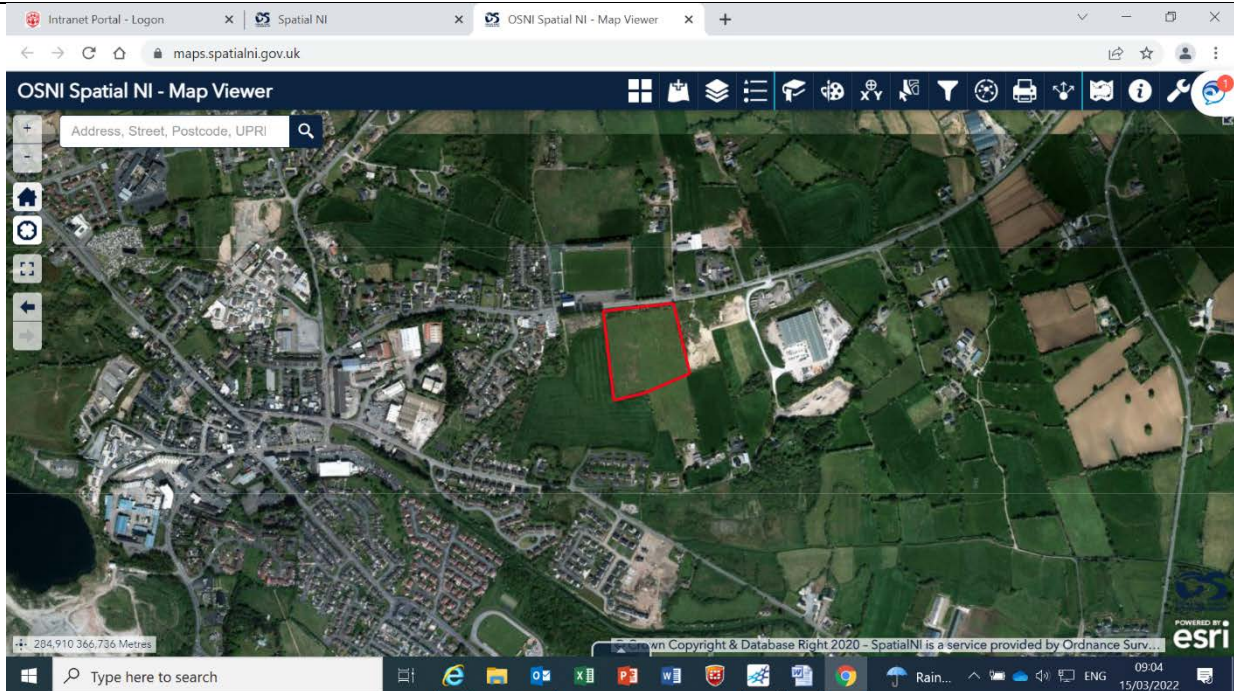


## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/0615/O	<b>Target Date:</b> 14/9/20
<b>Proposal:</b> Proposed housing development	<b>Location:</b> Lands situated South of Annagher Road Coalisland (opposite Coalisland Na Fianna Club House and 156 Annagher Road Coalisland
<b>Referral Route:</b>  Major application	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Harry Mc Clure 26 Washingbay Road Coalisland	<b>Agent Name and Address:</b> J Aidan Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	NI Water - Multi Units West - Planning Consultations	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DETI - Geological Survey (NI)	Content
Statutory	NIEA	Advice
Advice and Guidance	Shared Environmental Services	Substantive Response Received
Statutory	Rivers Agency	Advice
Advice and Guidance	Northern Ireland Housing Executive - Central Planning	Substantive Response Received

#### Representations:

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

#### Summary of Issues

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

The site is located within the development limits for Coalisland, as defined by the Dungannon and South Tyrone Area Plan 2010. Located adjacent to Annagher Road with access proposed from same, the site is significantly below road level, up to 7 metres for the first 15 to 20 metres from the road edge. The remainder of the site then slopes gently south and is part of a larger field, which has access from a laneway connecting to Washingbay Road. Apart from an area adjacent to the Annagher Road, very little vegetation exists on the site. Further south exists a small residential estate, The Mills, which is accessed directly from the Washingbay Road. To the west and south west some 150 and 300metres exists Innishmore Gardens and Columbas Drive, both residential estates. A significant amount of undeveloped land, within the development limits, exists to the south, east and west of the site.

### **Relevant Site Histories:**

No relevant site history identified.

### **Representations:**

Representations received from press notice or neighbourhood notification. Consultation with Department for Infrastructure - Roads, Department for Infrastructure - Rivers, Environmental Health Department, Department for Agriculture Environment and Rural Affairs, Department for the Economy, Northern Ireland Water and Shared Environmental Service has raised no concerns subject to conditions and informatives. For representations see below.

### **Description of Proposal**

Proposed housing development within the limit of development for Coalisland in compliance with Planning Policy Statement 7 (PPS7) Quality Residential Environments.

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

The site is located within the limit of development for Coalisland as defined by the Dungannon and South Tyrone Area Plan 2010 (DAP). A residential designation (CH10) has been applied to a large area which includes this site. Key site requirements include

- vehicular access should be from Annagher Road and Washing Bay Road;
- vehicular access through the site should link Annagher Road to Washing Bay Road;
- pedestrian access should be provided from Annagher Road, through the site, to link to Washing Bay Road and to existing housing at Innishmore Park and Columbas Drive;

The development lies within settlement limits therefore Planning Policy Statement 7 (PPS 7): Quality Residential Environments applies. As this application is for outline

permission there is no requirement for detailed proposals, however a concept plan is required and has been submitted. This plan sets out an approach to the site development in general terms only and it may not be the only concept available for the land. In my opinion the proposal, as presented respects the surrounding context, character and topography in terms of layout, scale and proportions. No archaeological features or built heritage have been identified, and identified landscape features will be protected and integrated in a suitable manner into the overall design and layout of the development by way of condition; adequate provision is made for public and private open space and landscaped areas. The movement pattern can support walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and will incorporate traffic calming measures; adequate and appropriate provision can be made for parking; the design of the development will be required to draw upon the best local traditions of form, materials and detailing; the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and is can be designed to deter crime and promote personal safety.

#### **Other Policy and Material Considerations:**

Planning Policy Statement 8 (PPS8): Open Space, Sport and Outdoor Recreation is a material consideration for this proposal. The Concept Plan indicates, in general terms those issues to be considered in the development of the site and in my opinion the open space provision is suitable for the development proposed.

In addition to the above policies Planning Policy Statement 12 (PPS12): Housing in Settlements applies, specifically Planning Control Principle 4 - Balanced Communities where it is advised that Social housing should be provided by developers as an integral element of larger housing developments, where a need is identified. In this instance, comment from NIHE advised that they had identified a projected housing need, to 31st March 2025, of 132 social housing units for Coalisland. NIHE further advised that they would support the need for 25% of the development to be social housing to help address unmet social housing need within the area. Contact with the developer has resulted in agreement of 25% of units being social housing.

Policy also advises that a mix of house types and sizes should be provided to promote choice and assist in meeting community needs, which also results in the building of more balanced communities. This is achieved by way of condition, see below.

During the processing of this application, a representation was made neither objecting to nor supporting the Planning Application. Stating concerns over the entrance to the development. i.e. Could this be re-positioned away from residential properties which are on the opposite side of the road and towards the town? Concerns related to noise and light pollution from vehicles exiting the development to the properties opposite, potential for dangerous driving as the road widens for the development such as speeding and reckless manoeuvres.

Examination and processing of this proposal included consultation with Department of Infrastructure - Roads. The size of the development requires the developer to provide a right turn lane and the identification of an access point. Where that access point

emerges it is not opposite any residential buildings, therefore the potential issues raised do not occur. In addition, DfI - Roads have not raised any issue in relation to the safety of the proposed development. Speeding and reckless driving are not issues to be dealt with by Planning.

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

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

The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies, however the policy provisions of Planning Policy Statement 7: Quality Residential Environments, Planning Policy Statement Planning Policy Statement 8 (PPS8): Open Space, Sport and Outdoor Recreation and Planning Policy Statement 12 (PPS12): Housing in Settlements are retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area, no other issues have been identified.

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

**Neighbour Notification Checked**

**Yes**

**Recommendation:**

I recommend that planning permission is granted subject to conditions.

**Conditions**

1. As required by Section 62 of the Planning Act (Northern Ireland) 2011, application for approval of the reserved matters shall be made to the Mid Ulster Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-

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

Reason: Time Limit.

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

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

3. Prior to the commencement of development hereby approved the developer shall provide a copy of a signed agreement between the developer and NIHE or a registered housing association indicating that a minimum of 25% of the dwellings within the development shall be constructed and used for social housing.

Reason: To ensure that an element of social housing is provided in order to comply with the provisions of Planning Policy Statement 12 (PPS 12): Housing in Settlements.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

11. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to the Planning Authority for its consideration and approval and written confirmation from NIW stating that they will adopt a drainage network that will attenuate the 1 in 100 year storm event.

Reason -To safeguard against flood risk to the development and elsewhere.

12. Plans submitted at Reserved Matters stage shall show the incorporation of badger protection zone(s) within proposal drawings. These zones must be clearly marked, on the ground with posts joined with hazard warning tape, around each badger sett entrance at a radius of 25 metres. No works, vegetation clearance, disturbance by machinery, dumping or storage of materials shall take place within the protection zone(s) without the consent of the Planning Authority/unless an appropriate Wildlife Licence has been obtained from NIEA. The protection zone(s) shall be retained and maintained until all construction activity has been completed on site.

Reason: To protect badgers and their setts on the site.

13. Plans submitted at Reserved Matters stage shall identify all vegetation that is to be removed, with evidence of appropriate compensatory native species planting also present.

Reason: To maintain/enhance the biodiversity value of existing vegetation on site.

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

The development shall be in accordance with the requirements of the Department's Creating Places Design Guide and, for the purpose of adopting private streets as public roads, the

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

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

15. The visibility splays of 4.5 metres by 90 metres to the west and 4.5metre by 215m to the east at the junction of the proposed access road with the public road, shall be provided in accordance with Drawing No. 03 bearing the date stamp 17 February 2021, prior to the commencement of any other works or other development.

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

16. The Department shall at Reserved Matters require a Right Turn Lane as depicted in Drawing No. 03 bearing the date stamp 17 February 2021.

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

3.The design concept plan (drawing 04 rev 1) submitted 15/9/21 is considered to be generally acceptable for the development of the site. The Concept Plan may not be the only concept design that would be considered acceptable to the Council. If the developer wishes to discuss alternative proposals, then the Council will enter into discussions based on PPS7 - Quality Residential Environments, PPS8 - Open space, Sport and Outdoor Recreation and other relevant publications.

4. Department of Agriculture, Environment and Rural Affairs informatives:

All standing advice referred to in this response unless otherwise stated can be found at the following link [www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice)

Water Management Unit would have no objection to this proposal.

If it is not possible to connect to mains sewer then Discharge consent, issued under the Water (Northern Ireland) Order 1999, will be required for the discharge of foul sewage from this development.

The applicant should be aware there is no guarantee that discharge consent will be granted.

It should be noted that Discharge Consent can only be assessed whenever the department has received an application deemed complete accompanied by the appropriate fee. When assessing a discharge consent Water Management Unit's concern is the suitability of the proposed means of effluent disposal and a number of site specific factors need to be taken into account.

The applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice Multiple Dwellings.

The applicant should note discharge consent, issued under the Water (Northern Ireland) Order 1999, is required for any discharges to the aquatic environment. Any proposed discharges not directly related to the construction of the development, such as from septic tanks or wash facilities, will also require separate discharge consent applications. The applicant must refer and adhere to relevant precepts contained in DAERA Standing Advice Discharges to the Water Environment.

The informatives contained in DAERA Standing Advice Multiple Dwellings.

The applicant must refer and adhere to all the relevant precepts contained in DAERA Standing Advice

- Multiple Dwellings
- Pollution Prevention Guidance
- Discharges to the Water Environment

The applicant is informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.

Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.

The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.

#### Natural Heritage

NIEA, Natural Environment Division (NED) has considered the impacts of the proposal on natural heritage interests and, on the basis of the information provided, has no concerns subject to conditions.

NED acknowledges receipt of Arboricultural Impact Assessment completed by Arbor Consulting, and date stamped 01/06/2020 by the Mid Ulster District Council. NED also acknowledges receipt of Biodiversity Checklist & Preliminary Ecological Assessment, and Appendix 1: Assessment of Badger Activity, both completed by ATEC NI Environmental Consultancy and date stamped 01/06/2020 by the Mid Ulster District Council.

The application is for a proposed housing development, with all associated public open space and the provision for access, parking and ancillary site works. The application site consists of a portion of a field of improved pasture, bounded by hedgerow vegetation, with scrub vegetation present along the northern/roadside boundary.

From the Preliminary Ecological Appraisal submitted, NED note that NI Priority Habitat is present on site in the form of hedgerow vegetation, however it is unclear what, if any, vegetation removal

is necessary to facilitate the development. NED recommend that amended drawings/plans are submitted at the Reserved Matters stage showing vegetated boundaries to be retained. All necessary vegetation removal should also be apparent on plans, with appropriate compensatory planting made up of NI Native Species detailed.

Guidance on Native Species planting can be found at:  
<https://www.daerani.gov.uk/publications/native-species-planting-guidance>.

NED are content that none of the semi-mature trees within the development site were considered to have bat roosting potential, and while the dense scrub along the northern boundary is likely to be removed for access facilities, NED are content that foraging and commuting habitats remain within and surrounding the application site and therefore significant impacts on bats as a result of the proposed development are not considered likely. NED highlight that breeding/nesting birds may also utilise the dense scrub vegetation to the north of the site, therefore NED recommend that any necessary vegetation removal is completed outside of the bird breeding season (1st March - 31st August inclusive).

NED are content that no significant impacts on smooth newt are considered likely given the lack of suitable habitats present within the application site.

From the confidential assessment of badger activity submitted, NED note 2 badger sett tunnel entrances were identified within the application site. All setts, whether active or inactive, are protected under the Wildlife (Northern Ireland) Order 1985 (as amended), therefore NED require evidence that 25m protection zones will be incorporated in to design proposals in order to minimise the significance of impacts on the local badger population as a result of the proposed development.

Standing advice in relation to badgers can be found at:  
<https://www.daerani.gov.uk/publications/standing-advice-development-land-may-affect-natural-heritageinterests>.

Subject to the below recommended conditions, NED are content with the proposal. Attention must also be given to the informatives listed below.

#### Bats

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

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

If there is evidence of bat activity / roosts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

## Badger

The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);
- damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;
- damage or destroy anything which conceals or protects any such structure;
- Disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

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

If there is evidence of badger on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Klondyke Building, Cromac Avenue, Gasworks Business Park, Belfast BT7 2JA. Tel. 028 9056 9558 or 028 9056 9557.

## Birds

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

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

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

## Animal Welfare

The applicant's attention is drawn to the Welfare of Animals Act (Northern Ireland) 2011 which indicates that it is an offence to cause unnecessary suffering to any animal. There are wild animals such as rabbits present on site. To avoid any breach of the Act through entombment or injury to animals on site the applicant should ensure that best practice techniques are applied during construction works. Advice on working with wildlife is available from the CIRIA online knowledge base at [www.ciria.org](http://www.ciria.org)

5. Department for Infrastructure Roads Informatives:

A stage 3 and stage 4 Road Safety Audit as appropriate will be required in accordance with GG119 on completion of the works.

6. Department for Infrastructure Rivers Informatives:

DfI Rivers comments under each policy heading of PPS15 from a drainage and flood risk perspective are as follows.

FLD1 - Development in Fluvial Flood Plains - The Strategic Flood Map (NI) indicates that the site does not lie within the 1 in 100 year fluvial flood plain.

FLD2 - Protection of Flood Defence and Drainage Infrastructure . This site is unaffected by any watercourse known to DfI Rivers however if a watercourse is discovered during any development works then DfI Rivers should be contacted and FLD2 will apply to the site.

FLD3 - Development and Surface Water . DfI Rivers, while not being responsible for the preparation of the report accepts its logic and has no reason to disagree with its conclusions. Consequently, DfI Rivers cannot sustain a reason to object to the proposed development from a drainage or flood risk perspective.

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

Given the proposals, referred to in the DA, DfI Rivers requests that the planning authority include a Condition as part of the planning permission if granted.

FLD4 - Artificial Modification of watercourses . This policy is not applicable to this site.

FLD5 - Development in Proximity to Reservoirs . This policy is not applicable to this site.

Under the terms of Schedule 6 of the Drainage (NI) Order 1973 any proposal either temporary or permanent, in connection with the development which involves interference with any watercourse such as culverting, bridging, diversion, building adjacent to or discharge of storm water etc requires the written consent of DfI. This should be obtained from our Armagh Office, 44 Seagoe Industrial Estate, Seagoe Lower, Craigavon, BT63 5QE.

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

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

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

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

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

7. Northern Ireland Water comments:

See attached Northern Ireland Water returned reply dated 22/10/20.

8. Department for the Economy - Geological Survey comments:

Geological Survey of Northern Ireland (GSNI) assessed the planning proposal in view of stability issues relating to abandoned mine workings.

A search of the Geological Survey of Northern Ireland Shafts and Audits Database indicates that the proposed site does not contain any known abandoned mine shafts or areas of known to be undermined.

This letter summarises the information currently held by GSNI. We acknowledge that our databases may not be comprehensive and that in certain circumstances the precise location of features and boundaries cannot be guaranteed as being accurate. I would therefore draw your attention to the attached Conditions and Limitations.

Conditions and Limitations:

Use by the customer of information provided by the Geological Survey of Northern Ireland is at the customers risk. The Department for the Economy gives no warranty, expressed or otherwise implied as to the quality or accuracy of information supplied by the Survey. The report provides only general indications of ground conditions and must not be relied upon as a source of detailed information about specific areas or as a substitute for site investigation or ground surveys. Users must satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, that the ground conditions are suitable for any particular use or developments.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	1st June 2020
<b>Date First Advertised</b>	16th June 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 138 Annagher Road, Coalisland, Tyrone, BT71 4NF Brian McVeigh 156 Annagher Road Coalisland BT71 5DA The Owner/Occupier, 156 Annagher Road Coalisland Tyrone	
<b>Date of Last Neighbour Notification</b>	2nd July 2020
<b>Date of EIA Determination</b>	1st July 2020
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/0615/O Proposal: Proposed housing development Address: Lands situated South of Annagher Road, Coalisland (opposite Coalisland Na Fianna Club House and 156 Annagher Road, Coalisland, Decision: Decision Date:	
<b>Summary of Consultee Responses</b>  Content subject to conditions and informatives.	
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Approved	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department: N/A	







Development Management Officer Report  
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2020/0850/F	Target Date:
Proposal: Proposed agri food processing unit housed within a portal framed building with weighbridge, car parking, HGV turning and parking, treatment plant and concrete yard with gates entrance	Location: 140m NE of 21 Sandholes Road Cookstown
Referral Route:  The application is being presented to Committee as it is being recommended for refusal	
Recommendation:	REFUSE
Applicant Name and Address: Wesley Hamilton 47 Shivey Road Sandholes Cookstown BT80 9HB	Agent Name and Address: PDC Chartered Surveyors 16 Gortreagh Road Gortreagh Cookstown BT80 9ET
Executive Summary:	
Signature(s):	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested

Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Statutory	Rivers Agency	Standing Advice
Non Statutory	DAERA - Veterinary Service (Animal By-Products)	Substantive Response Received
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	Rivers Agency	Advice
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	No Response
Statutory	DFI Roads - Enniskillen Office	
Non Statutory	Shared Environmental Services	
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Representations:		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues including representations		
No representations have been received in relation to this application.		

### Characteristics of the Site and Area

The site, which is in the rural area, extends to 0.75ha and is located to the southern side of a large road frontage field at the junction of Sandholes Road and Kilcronagh Road immediately outside the settlement development limit of Cookstown. The settlement development limit extends along the Kilcronagh Road, which is approximately 200m to the north of the site, before extending southwards along the eastern side of Sandholes Road but excluding a small brownfield site. The field has a mature tree lined frontage along the Sandholes Road set to the rear of a wide grass verge, with a 2m high hedge defining the southern boundary, along which there is also an open watercourse. An existing farm lane also extends along the southern boundary and leads to farmlands beyond the site. The site falls gently away from the Sandholes Road before rising towards a crest mid-way along the field and then flattening out towards the Kilcronagh Business Park.

There are limited critical views of the site from between the junction of the Kilcronagh Road until reaching the access point, due to the mature trees along the Sandholes Road. There are also open views of the site when travelling in either direction along the Kilcronagh Road for approximately 100m from the junction with Sandholes Road.

### Description of Proposal

The proposal is for the erection of an off-farm agri-food processing unit housed within a portal framed building with weighbridge, car parking, HGV turning and parking, treatment plant and concrete yard with gates entrance.

The proposed access is taken directly off the Sandholes Road and sweeps around to run alongside the existing farm lane along the southern boundary. The proposed building is sited in the centre of a large concrete yard with a weighbridge at the entrance and adequate circulation and parking for 5 cars and 3 lorries.

The proposed shed, which measures 35.3m x 12.6m with a height of 8.7m to the eaves and a ridge height of 10.3m, is set around 180m from the Sandholes Road. The external finishes are Goose wing grey profiled cladding over wet dash render with one large roller shutter door in each of the southern, eastern and western elevations together with a single pedestrian door in both the southern and eastern elevations.

The raw materials are delivered into the building at the eastern end via a piped intake before being processed through several stages and eventually being dispatched at the western end. The building also includes an office and canteen area at the western end of the building.

### Planning Assessment of Policy and Other Material Considerations

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

- Strategic Planning Policy Statement (SPPS)
- Cookstown Area Plan 2010
- Planning Policy Statement 21 (PPS21) Sustainable Development in the Countryside

### Planning History

The only planning history on this site is LA09/2017/0996/PAD - Proposed new farmers market to include new market hall building with sales ring, offices, associated facilities and parking car/ lorries within site - current application.

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

#### Cookstown Area Plan 2010

The site is set within the rural area and in a field immediately adjacent to but outside the settlement development limit of Cookstown. The area to the north of the application field is zoned with the Area Plan as I1 Industry/Mixed Business Use with a similar area to the East I2 and I3. Therefore the proposed development would introduce an industrial use into the rural area and could be viewed as an extension of the industrial area into the surrounding countryside. This is contrary to the Cookstown Area Plan 2010.

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.





Site set between the settlement development limit and Lafarge Cement Factory

The SPSS recognises that facilitating development in appropriate locations is considered necessary to ensure proposals are integrated appropriately within rural settlements or in the case of countryside locations, within the rural landscape. The SPSS goes on to advise that 'All development in the countryside must integrate into its setting, respect rural character, and be appropriately designed' and in addition to the 'other types of development in the countryside apart from those set out above should be considered as part of the development plan process in line with the other policies set out within the SPSS'. It further reinforces this by stating that 'In all circumstances proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings, must not have an adverse impact on the rural character of the area, and meet other planning and environmental criteria'. It further advises that the supplementary planning guidance contained within 'Building on Tradition: A sustainable Design Guide for NI Countryside' must be taken into account in assessing all development proposals in the countryside.

PPS 21 advises that approval will be granted for industry and business proposals in the countryside in accordance with PPS 4 and therefore the overarching criteria for considering industrial development in the countryside would normally be PPS 4 Policy PED 2 - Economic Development in the Countryside. Policy PED 2 states that 'Economic development associated with farm diversification schemes and proposals involving the re-use of rural buildings will be assessed under the provisions of Planning Policy Statement 21 - Sustainable Development in the Countryside'. All other proposals for economic development in the countryside will only be permitted in exceptional circumstances. Therefore the relevant policy for assessing this proposed development is PPS 21 Policy CTY 11 Farm Diversification.

PPS 21 CTY 11 - Farm Diversification has a presumption in favour of farm or forestry diversification projects where it has been demonstrated that the proposal will be run in conjunction with the agricultural operations on the farm. In considering the supporting information provided in conjunction with this proposed development, it states that 'this project if permitted would offer the applicant a clear opportunity to diversify and expand the farm business into another sector of agriculture and animal feeds from a local source. The proposal would bolster the current farm business as it would expand it into the agri-food sector and offer additional revenue and employment to the local area. The farm business number was allocated to the business in 1992.

Whilst this indicates that the proposed development will be run in conjunction with the farm business as it is being proposed on the applicants farmland and is being proposed to help boost the farm business in a time of uncertainty in terms of subsidies and feed stock availability, it should be noted that the applicant also runs another business from the main farm yard namely Hamilton Contracts. Hamilton Contracts are a building and civil engineering company specialising in the manufacturing of roofing/cladding, purlin profiles and flashings. The following aerial photograph clearly shows a number of articulated lorry trailers parked at the existing farmyard. Therefore it is not accepted that access to the site is difficult or inaccessible as it clearly provides access for these vehicles.



The purpose of policy CTY 11 is to provide for farm diversification projects which will support the existing farm business and which will be run in conjunction with that farm business. The purpose of the Policy is not to provide for an endless stream of new businesses starting up in the countryside. As the applicant has already diversified by way of Hamilton Contracts, this raises the question, should further diversification projects be permitted under this policy.



The following criteria also needs to be addressed:-

- The farm business is currently active and is established;  
DAERA have advised that the farm business is both active and has been established for more than 6 years;
- It is appropriate in terms of character and scale;  
Although the proposed site is not adjacent to existing farm buildings, it has an agricultural design, typical of agricultural buildings, it is set within a low lying area of the subject field, so as to lessen the visual impact. In this sense it would be appropriate in terms of character and scale.
- It will not have an adverse impact on the natural or built heritage;  
A biodiversity checklist has been completed by an ecologist and this deemed that the proposal will not negatively affect the local eco system. Neither NIEA nor SES raised any issues with the proposed development in this regard.

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

- It will not have a detrimental impact on nearby residential properties by way of noise, smell and pollution.  
As the proposed development is around 100m from the nearest dwelling and is reasonably well screened from those by a copse of mature trees and a mature hedgerow, it is accepted that there will not be any detrimental impact on residential amenity. Environmental Health have no raised any issues of concern in this respect.
- Proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.  
A new building and site is being requested due to the specialist nature of the plant and its processes. The facilities stakeholders have stipulated that the process and product maintains strict segregation and procedures will be required to ensure no contamination occurs.  
The current farm operations and infrastructure is not suitable due to the current livestock being held at these buildings and they are all being utilised fully at present.

Exceptionally, a new building may be permitted where there is no existing building available to accommodate the proposed use, either because they are essential for the maintenance of the existing farm enterprise, are clearly unsuitable for adaptation and re-use or cannot be adapted to meeting the requirements of other statutory agencies. Where a new building is justified it should be satisfactorily integrated with an existing group of buildings.

No suitable buildings currently exist on the current farm and the building need to be a particular size and shape in order to accommodate the proposed bespoke plant. This proposed unit is a specifically designed unit and its location away from the exiting farm ensures that no cross contamination of the applicants other livestock occurs from the processing of the poultry hatchery by product. This is a strict requirement to ensure the product produced is clean and uniform. The design and materials are sympathetic to

the locality. The building is of a simple design and buildings of this style are characteristic of the rural area.

Due to the nature of the produce to be manufactured at the facility the stake holders had stipulated that an independent and isolated facility is obtained to reduce the risk of bio hazards at the site. No risks to the supply chain can be introduced into the process of this product, hence the need to be located away from the current farmyard.



In my opinion, as the applicant clearly owns additional lands surrounding the farmyard, which have a road frontage, a separate self-contained yard could easily be created with its own access, which would provide a separate and secure location for the proposed building whilst achieving the required levels of bio-security. Therefore I do not accept the argument that there is a need for a site located away from the main farmyard. As the applicant already operates a building and civil engineering company from the existing premises at 47 Shivey Road which involves deliveries to and from the premises by lorry, the road network is clearly capable of taking the type of vehicles involved. This is obvious from the fact that there are several lorry trailers parked around the existing yard.



PPS 21 - Policy CTY 13 Integration and Design of Buildings in the Countryside allows for a building to be approved where it can be visually integrated into the surrounding landscape. Such a building will be unacceptable where it is a prominent feature in the landscape or it relies primarily on the use of new landscaping for integration. As detailed above, the proposal would not be prominent as it is sited in the lowest lying area of the field and well back from the public road while being set against a copse of mature trees. However, it is necessary to provide additional landscaping at the north-eastern corner of the building and as this would take a considerable time to mature to such an extent that it would provide an acceptable degree of screening to the proposed building, the proposed development would fail to achieve an acceptable degree of integration as it lacks long established boundaries to provide a sense of enclosure. In my opinion, the proposed development fails the key test of integration and is therefore unacceptable in terms of its integration potential.

PPS 21 - Policy CTY 14 Rural Character allows for a new building to be approved provided it does not have a detrimental change or further erode the rural character. Although the proposed development will be visible from the public road, it is considered to be acceptable, as it is set away from other buildings and will not be read in conjunction with those and thereby causing an issue of build-up.

PPS 21 - CTY 15 The setting of Settlements advises that planning permission will be refused for development that mars the distinction between a settlement and the surrounding countryside or that otherwise results in urban sprawl. The proposed site is set within a large open agricultural field in the rural area and immediately adjacent to the settlement development limit of Cookstown. The field is bounded to the north by a large commercial office building (CDE Global) set within the industrial zoning I1 with other built development on similar zonings I2 and I3 on opposite side of the Sandholes Road. To the immediate south of the site is a small triangular shaped site, containing a dwelling (No.21), outbuildings and associated yard which appears to be used as a builders compound. The undeveloped frontage along the

Sandholes Road includes the field containing the proposed site. This is considered to be an important visual break between the built development within the settlement and the rural area and extends to 140m. The proposed site would be located within this visual break and would be considered as marring the distinction between the settlement and the rural area.

#### Recommendation

In taking the above into consideration, it is my opinion that the proposed development involves the provision of an industrial building in the rural area, on a site which mars the distinction between the settlement and the rural area.

It is my opinion that the proposed development be refused for the reason stated below:-

Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refuse for the reason stated below:-

#### Reasons for Refusal:

1. The proposal is contrary to Policy CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the farm business has already diversified and if approved this development would result in the creation of another business in the open countryside which is not satisfactorily integrated with an existing group of buildings.
2. The proposal is contrary to the Cookstown Area Plan 2010 and PPS 21 Policy CTY 15 The Setting of Settlements in that the development would, if permitted, have an adverse impact on the landscape by reason of its location in the open countryside outside the development limits of designated settlements or dispersed rural communities and hence would be detrimental to the setting of Cookstown in that it would mar the distinction between the settlement and the open countryside.

Signature(s)

Date:

ANNEX	
Date Valid	16th July 2020
Date First Advertised	28th July 2020
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier, 18 Sandholes Road Cookstown Tyrone The Owner/Occupier, 20 Sandholes Road, Cookstown, BT80 9AR The Owner/Occupier, 21 Sandholes Road Cookstown Tyrone The Owner/Occupier, CDE Global, Kilcronagh, Sandholes Road, Cookstown BT80 9HJ	
Date of Last Neighbour Notification	13th August 2020
Date of EIA Determination	
ES Requested	No
Planning History  Ref ID: LA09/2017/0996/PAD Proposal: Proposed new farmers market to include new market hall building with sales ring, offices, associated facilities and parking car/ lorries within site Address: Lands at junction of Kilcronagh Road, Sandholes Road, Cookstown, Decision: Decision Date:  Ref ID: LA09/2020/0850/F Proposal: Proposed agri food processing unit housed within a portal framed building with weighbridge, car parking, HGV turning and parking, treatment plant and concrete yard with gates entrance Address: 140m NE of 21 Sandholes Road, Cookstown, Decision: Decision Date:  Ref ID: LA09/2017/0240/F Proposal: Erection of workshop and offices for the repair and paint spraying of vehicles, car wash facility, staff/visitor car parking, short term storage of vehicles awaiting collection, 2m high security fence and entrance gates and associated site works (Relocation of existing business from Chapel Street, Cookstown) Address: 16 Sandholes Road, Cookstown, Decision: PG	

Decision Date: 11.06.2018

Ref ID: LA09/2018/0227/F

Proposal: New underground gas transmission pipeline (intermediate pressure) approximately 3.5 Km in length both in road and in verge with associated temporary site works, including open cut excavation and horizontal directional drilling for pipe installation

Address: Land along Annagh Road from the junction with Dungannon Road to the junction with Sandholes Road and Sandholes Road from the junction with Annagh Road to its junctions with the Strifehill Road Cookstown,

Decision: WITHDR

Decision Date: 03.07.2018

Ref ID: I/2004/1190/F

Proposal: New access (service road) and earthworks and land levelling to facilitate the development of industrial land (amended plans)

Address: Agricultural land bounded by Sandholes Road, Kilcronagh Road, and Fairy Burn river.

Decision:

Decision Date: 29.06.2005

Ref ID: I/2000/0093

Proposal: Site for entrance road to industrial estate.

Address: Adjacent to 18 Sandholes Road, Cookstown

Decision:

Decision Date: 28.02.2000

Ref ID: I/2004/1242/F

Proposal: Modifications to existing road layout to provide right turn access

Address: Adjacent to and 100m South of Copelands Factory, Sandholes, Cookstown

Decision:

Decision Date: 15.12.2004

#### Summary of Consultee Responses

All consultees responded positively.

#### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02/2

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

Drawing No. 04  
Type: Further Particulars  
Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:  
Response of Department:



**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1196/F	<b>Target Date:</b>
<b>Proposal:</b> Extension to existing compost manufacturing facility to facilitate the relocation of existing bagging plant	<b>Location:</b> 10A Ferry Road Coalisland
<b>Referral Route: 3rd party objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Evergreen Horticulture 10A Ferry Road Coalisland	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary: Recommendation that the proposal meets planning policy and will not result in any detrimental impacts to the environment subject to planning conditions.</b>	
<b>Signature(s):</b>	



**Case Officer Report**

**Site Location Plan**



<b>Representations:</b>	
Letters of Support	None Received
Letters of Objection	36
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

Third Party Representations

The proposal was advertised in the local press and neighbour notification carried out in line with Council's statutory duties.

A number of 3rd party objections have been received, and the issues are summarised below. The full objections can be viewed on the planning portal;

- concern raised over noise and light pollution from the development;
- walls of the existing development are blocking light to the adjacent nature reserve;
- the development will have a detrimental impact on the natural habitat and wildlife, including potential pollution to the nearby Holy River and Lough Neagh and on the bird and bat population;
- currently vehicles from the existing development are parking on the public road, and that the development will exacerbate the problem, causing road safety concerns to all existing road users;
- development not needed as peat extraction coming to an end in Ireland soon.
- detrimental impacts to residential amenity.

**Description of proposal**

This is a full planning application for extension to existing compost manufacturing facility to facilitate the relocation of existing bagging plant.

### **Characteristics of site and area**

The site is located along Ferry Road, and is a flat field adjacent and south of an existing peat business Evergreen Horticulture and to the east (rear) of No. 12 which is a modest detached bungalow. Along the southern boundary is the Holy River which drains into Lough Neagh to the east. There is also a row of mature trees along this boundary. The shores of Lough Neagh lie approx. 100m east of the site and there is a copse of mature trees between the site and the Lough. Between the site and the existing peat business is a 2m high security fence and concrete post boundary. There is a wire mesh fence and outhouse between the site and No. 12 to the west.

The area is defined by a mix of detached dwellings, and indigenous businesses. Land is mostly agriculture. The Washingbay Centre and Playing Fields are located to the north.

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

#### Planning Act 2011

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

#### Area Plan

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

#### Dungannon and South Tyrone Area Plan 2010

This is the extant plan for this area. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS.

The proposal is located in the open countryside. There are no specific plan policies that are relevant to this proposal. The policy provisions of SPPS, PPS21 and PPS4 apply.

#### Key Planning Policy

Regional Development Strategy 2035

Strategic Planning Policy Statement for Northern Ireland (SPPS)

Planning Policy Statement 21: Sustainable Development in the Countryside

Planning Policy Statement 4- Planning and Economic Development.

Planning Policy Statement 3: Access, Movement and Parking

PPS 15: Planning and Flood Risk (revised)

PPS2: Natural Heritage

### Relevant Planning history

M/1983/0455- Peat manufacturing plant and store, permission granted

M/2000/0400/F- Commercial offices to service adjoining peat processing and packaging factory, granted 09.11.2000

Current Enforcement Case LA09/2021/0049/CA- Alleged unauthorised extension to existing compost manufacturing facility. Case is live and nothing further can be disclosed at this stage.

### Third Party Representations

The proposal was advertised in the local press and neighbour notification carried out in line with Council's statutory duties.

A number of 3rd party objections have been received, and the issues are summarised below. The full objections can be viewed on the planning portal;

- concern raised over noise and light pollution from the development;
- walls of the existing development are blocking light to the adjacent nature reserve;
- the development will have a detrimental impact on the natural habitat and wildlife, including potential pollution to the nearby Holy River and Lough Neagh and on the bird and bat population;
- currently vehicles from the existing development are parking on the public road, and that the development will exacerbate the problem, causing road safety concerns to all existing road users;
- development not needed as peat extraction coming to an end in Ireland soon.
- negative impacts of dust on residential amenity

### Consideration

#### SPPS

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. There is no conflict between SPPS and retained policy in this case.

#### PPS21

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under SPPS and provides the appropriate policy context. Policy CTY1 of PPS21 sets out the types of development that are considered to be acceptable in the countryside. One of these is Industry and Business uses in the countryside that are in accordance with policies contained within PPS4- Planning and Economic Development.

It is clear from the previous planning history that there is an existing established commercial peat processing and packaging factory and yard at this site. This proposal aims to expand the existing peat business and yard. Policy PED 3- Expansion of an Established Economic development Use in the Countryside of PPS4 is the appropriate policy in which to assess this application.

PED 3 allows for the expansion of an established economic development use in the countryside where the scale and nature of the proposal will not harm the rural character

of the area or appearance of the local area and there is no major increase in the site area of the enterprise.

It is intended to extend the existing building on site to the south, and the yard area to the south. The extension to the building will match the size, scale and design of the existing building, and the ridge will not be higher than the building on site. The yard area will be to the rear of No. 12 and will be well enclosed with existing trees and hedgerows, and screened from the public road by existing development. Environmental Health do not raise any concern over odour and noise issues. In my view the proposed extension will not ruin the harm or rural character of this area and does not represent a major increase to the site area in this case.

The policy states that proposals for expansion will normally be expected to be accommodated through the reuse or extension of existing buildings on site. This part of the policy is met.

I find the proposal to be of scale and nature that is acceptable for this site and area and will not have a detrimental impact on the appearance of the local area and does not represent a major increase in the site area of the enterprise. PED 3 is met.

All proposals for economic development use will be required to meet criteria contained within policy PED 9 General Criteria of Economic Development Use.

Criteria a. There is an established economic development use that is being extended. While the proposal is close to the rear boundary of No. 12, Environmental Health raise no concern subject to an acoustic barrier being erected as per the Noise Impact Assessment. I find the use to be compatible with it's surroundings.

Criteria b. Environmental Health were consulted on this proposal and advise that acoustic conditions be attached to any permission. The existing factory is also beside No. 12 and EHD have not raised any history of noise complaints in their consultation reply. There will be no issues of overlooking or overshadowing of neighbouring property. I am satisfied that the development will not harm the amenities of nearby residents subject to noise mitigation conditions being attached.

Criteria c. The site is not located within or beside any known area that is protected for it's built heritage. The site is located adjacent to Holy River, and close to the shores of Lough Neagh ASSI/SAC. Consultation was carried out with NIEA and SES on this proposal and the agent has provided environmental reports and information to demonstrate that the proposal will not have a negative impact on the natural environment and wildlife. A flood risk and drainage assessment was also provided, and all consultees are now content with this proposal subject to conditions. I am satisfied that the objectors concerns are not determining in this instance and that it has been demonstrated by the agent that the development will not have a detrimental impact on the environment.

Criteria d. The agent has provided information to show that the development is not located within the 1:100 floodplain of Lough Neagh, and Rivers Agency have accepted this. Rivers Agency are content that the development will not cause flooding elsewhere.

Rivers Agency require a 5m strip to be protected along Holy River and require a Schedule 6 consent which can be conditioned.

Criteria e. I am satisfied that the proposal, if restricted to storage only, will not cause a noise nuisance to surrounding residential properties. It is worth noting that no neighbours have objected to this proposal.

Criteria f. On the P1 form the agent has indicated that sewage from the site will be dealt with through existing septic tank arrangements. Other waste streams will be dealt with through removal by licensed contractors. Discharge consent of storm water will be applied for under separate legislation. No consultees have raised any concern over other emissions or effluent from the site. I am content that all emissions or effluent from the site can be dealt with.

Criteria g. DfI Roads were consulted on this proposal and raise no objections over access to the site, or the capacity of the road network in safely handling extra vehicles. There is acceptable parking, access and manoeuvring of vehicles and DfI Roads have no concerns in this regard subject to planning conditions which will be listed later in my report. In this respect I am also satisfied that the policy provisions contained within PP3 have been met, and that a safe and satisfactory access to the site can be achieved. In my view 3rd party objections in relation to road safety issues are not determining in this instance.

Criteria h and i. Access to the site, is mostly by private or service vehicles. DfI Roads raised no requirement for foot path provision. Due to the location of the site, I am satisfied that appropriate access can be obtained by those using or visiting the site.

Criteria j. I am satisfied that most existing trees and hedgerows can be retained and that the development represents a sustainable design, respectful of the environment.

Criteria k and m. Existing natural boundaries that are important for screening the site can be retained, and will help integrate the site into the landscape. Most natural screening to the site falls outside the site boundaries.

Criteria l. The perimeter of the site will be enclosed by hedging or fencing which will deter crime and promote personal safety.

I am satisfied that the spirit of this policy is met.

#### Other Consideration

No land contamination issues have been identified.

A document was provided by the agent to show the source of the Peat Products that are brought to the site. This was to ensure that the peat is not being brought to the site from the alleged unauthorised peat extraction sites nearby. The document shows the peat to be imported from Finland.

An objector raised concern over the need for this peat facility as peat extraction in Ireland is coming to an end. The demonstration of need in this particular case is not a policy requirement. As with all businesses, they adopt to change or diversify where obstacles and challenges are met. I do not find the objectors concerns in this regard to be determining to this application.

Concern was also raised that dust may cause detrimental impact on residential amenity. A condition to keep external storage of peat in this part of the development in a permanent dampened state will reduce negative impacts of dust. There is no such control on the existing operational side of the established business, and any negative impacts on health directly associated with the existing established development will have to be policed and monitored by Public Health agency. It is highly unlikely that peat dust, given its properties, would give rise to a Public Health emergency.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

That planning permission be granted subject to the following conditions.

**Conditions**

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

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

2. Any peat stored externally shall be in a dampened state at all times.

Reason: To safeguard surrounding residential amenity from negative impacts of dust.

3. Prior to the commencement of development hereby approved a Schedule 6 consent letter from DfI Rivers Area Office shall be provided to Mid Ulster Council for agreement.

Reason: To safeguard the water environment.

4. The development shall be carried out in accordance with levels indicated on drawing No. 02 rev2 date received 18/02/2021, and shall be permanently retained thereafter.

Reason: To ensure no development takes place within a floodplain.

5. Prior to the proposed development hereby approved becoming operational, the acoustic barrier as detailed on drawing no. 02 rev2 date received 18/02/2021, shall be constructed and permanently retained and maintained thereafter.

Reason: To protect residential amenity from noise.

6. Prior to the proposed development hereby approved becoming operational, the roller shutter door on the Proposed Front Elevation (South West Facing) on drawing no. 04, date stamp received 29 SEP 2020 shall have automatic fast closing door devices fitted and permanently retained and maintained in working order. The roller shutter doors shall remain closed at all times when production and bagging is taking place inside the shed hereby approved.

Reason: To protect residential amenity from noise.

7. All walls, facades and doors to the proposed extension shall have a sound reduction Rw of at least 32dB, as detailed in Doc 1: Acoustic Report from Grainger Acoustics, date stamp received 04/12/2020, and shall be permanently retained thereafter at this sound reduction value.

Reason: To protect residential amenity from noise.

8. Within 4 weeks of a written request by the Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess the level of noise from the development. Details of noise monitoring surveys shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity from noise.

9. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy should be completed by competent persons in accordance with Land Contamination: Risk Management (LCRM) guidance.

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

10. After completing the remediation works under Condition 1 and prior to occupation of the development, a Verification Report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Model Procedures for the Land Contamination: Risk Management (LCRM) guidance. 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.

11. No development shall take place on-site until the method of sewage disposal has been agreed in writing with Northern Ireland Water (NIW) or a Consent to discharge has been granted under the terms of the Water (NI) Order 1999.

Reason: To ensure protection to the aquatic environment and to help the applicant avoid incurring unnecessary expense before it can be ascertained that a feasible method of sewage disposal is available.

12. A Final Construction Environmental Management Plan must be submitted by the appointed contractor to the planning authority prior to work commencing. This shall reflect all the mitigation and avoidance measures outlined in the CEMP rev. B published on the Planning Portal 08/06/2021 and the CEMP Drainage Plan Drawing 08 rev 01 date stamp received 25/05/2021. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the planning authority.

Reason: To ensure that the appointed contractor undertaking the work is fully appraised of all the risks associated with the proposal and to provide effective mitigation ensuring there are no adverse impacts on the integrity of Lough Neagh and Lough Beg SPA/Ramsar.

13. Prior to the commencement of operations hereby approved, the storm drainage of the site indicated within Drawing 07 Rev 02 date stamp received 25/05/2021, and shall put in place and permanently retained thereafter.

Reason: To prevent polluting discharges entering the adjacent watercourse and impacting on site integrity of Lough Neagh and Lough Beg SPA/Ramsar.

14. There shall be no storage of any loose peat material within 10m of the NE or SE boundaries of the site as indicated in green on drawing No. 01 rev1 date stamp received 18/12/2020.

Reason: To protect the adjacent SPA/Ramsar habitat quality and downstream water quality in Lough Neagh and Lough Beg SPA/Ramsar.

15. The vehicular access, including visibility splays of 2.4 metres by 60metres in both directions, shall be provided in accordance with Drawing No 02 Rev 1 bearing the date stamp 18th December 2020, prior to the commencement of any other development hereby permitted, and shall be permanently retained thereafter. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

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

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

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



Reason: To ensure waiting vehicles do not encroach onto the carriageway

18. No operation in or from any building or yard area hereby permitted shall commence until hard surfaced areas have been constructed and permanently marked to provide adequate facilities for parking, servicing and circulating within the site, in accordance with the approved drawing No 02 Rev 2 bearing date stamp 18th FEB 2021. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles.

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	29th September 2020
<b>Date First Advertised</b>	13th October 2020
<b>Date Last Advertised</b>	
<p><b>Details of Neighbour Notification</b> (all addresses)</p> <p>The Owner/Occupier, 10a ,Ferry Road,Coalisland,Tyrone,BT71 4QT</p> <p>The Owner/Occupier, 11 Ferry Road Coalisland Tyrone</p> <p>The Owner/Occupier, 12 Ferry Road Coalisland Tyrone</p> <p>The Owner/Occupier, 12a ,Ferry Road,Coalisland,Tyrone,BT71 4QT</p> <p>The Owner/Occupier, 14 Ferry Road,Coalisland,Tyrone,BT71 4QT</p> <p>The Owner/Occupier, 16 ,Ferry Road,Coalisland,Tyrone,BT71 4QT</p> <p>James Ryan Email James Ryan</p> <p>Email Ryan Brady</p> <p>Email James Ryan</p> <p>Email A Murphy Washingbay,Tyrone</p> <ul style="list-style-type: none"> <li>. Washingbay Resident 16</li> <li>. Washingbay Resident 20</li> <li>. Washingbay Resident 22</li> <li>. Washingbay Resident !</li> <li>. Washingbay Resident 12</li> <li>. Washingbay Resident 17</li> <li>. Washingbay Resident 25</li> <li>. Washingbay Resident 8</li> <li>. Washingbay Resident 9</li> </ul>	

<p>. Washingbay Resident 13</p> <p>. Washingbay Resident 21</p> <p>. Washingbay Resident 24</p> <p>. Washingbay Resident 5</p> <p>. Washingbay Resident 6</p> <p>. Washingbay Resident 18</p> <p>. Washingbay Resident 23</p> <p>Mr &amp; Mrs R</p> <p>. Washingbay Resident 2</p> <p>. Washingbay Resident 15</p> <p>. Washingbay Resident 4</p> <p>. Washingbay Resident 7</p> <p>. Washingbay Resident 14</p> <p>. Washingbay Resident 3</p> <p>. Washingbay Resident 10</p> <p>. Washingbay Resident 11</p> <p>The Owner/Occupier,</p> <p>Teresa McNally</p> <p>The Owner/Occupier,</p> <p>. Concerned Lough Neagh Resident</p> <p>The Owner/Occupier,</p> <p>. Washingbay Resident 19</p>	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	

<b>ES Requested</b>	No
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	



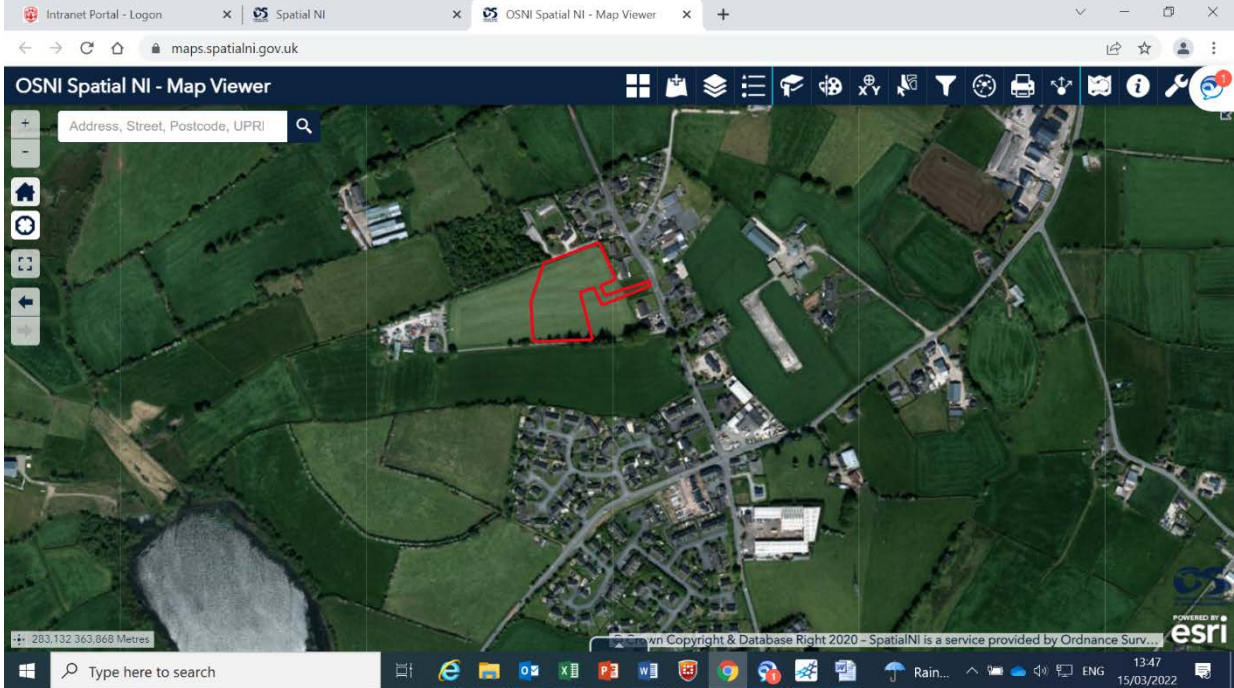
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1557/F	<b>Target Date:</b> 22/3/21
<b>Proposal:</b> Erection of 13 dwellings ( 11 Detached and 2 Semi detached) with garages and associated site works (revised plans)	<b>Location:</b> Lands to the rear and immediately West of numbers 18 and 20 Mullaghteige Road Bush Dungannon
<b>Referral Route:</b>  Objections received.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> BOA Island Properties Ltd 651 BOA Island Road Kesh Enniskillen	<b>Agent Name and Address:</b> Mc Adam Stewart Architects Banbridge Enterprise Centre Scarva Road Banbridge BT32 3QD
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Health & Safety Executive for NI	Content
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	NI Water - Multi Units West - Planning Consultations	Substantive Response Received
Non Statutory	DETI - Geological Survey (NI)	No Objection
Statutory	DFI Roads - Enniskillen Office	Standing Advice

#### Representations:

Letters of Support	None Received
Letters of Objection	<b>2</b>
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

#### Description of Proposal

Erection of 13 dwellings (11 Detached and 2 Semi detached) with garages and associated site works (revised plans) in compliance with Planning Policy Statement 7 (PPS 7): Quality Residential Environments.

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

The site comprises an access road between No's 14 and 18 Mullaghteige Road and land to the west of the access into a large agricultural field. Part of the northern and western portion of the field is included within the site, while land to the south has been granted planning permission under LA09/2018/0420/F for the erection of 10 dwellings (6 Detached and 4 semi detached) on 01.09.2020. The site rises gradually from the south to north and from the east to west.

Part of the eastern boundary of the site includes the rear boundaries of the existing houses and is comprised of a 1 1/2m high wall and 2-3 m high leylandi hedgerow. The northern boundary is defined by a 1 to 1.5m high hawthorn hedgerow, while the southern boundary is defined by a mature tree lined hedge row with some trees over 10m tall. Remaining boundaries are not clearly defined.

The site lies within the settlement limits of Bush as depicted within the Dungannon and South Tyrone Area Plan 2010. It is situated toward the north end of the settlement limits, and is just a short distance to the North East of Dungannon and to the North of the M1 Motorway. The area is predominantly residential, however, there is a primary school to the west, as well as car sales and small garage to the south.

### **Relevant Site Histories:**

The most recent relevant planning site history is LA09/2018/0420/F which was for the Erection of 10 dwellings (6 Detached and 4 semi detached) and was approved on 1/9/20.

### **Representations:**

Representations received from press notice or neighbourhood notification.

Consultation with Department for Infrastructure - Roads, Department for Infrastructure - Rivers, Environmental Health Department, Northern Ireland Water, Department for the Economy - Geological Survey of Northern Ireland and Health and Safety Executive Northern Ireland has raised no concerns subject to conditions and informatives. For representations see below.

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

The main policy under which the proposed development is to be considered is Planning Policy Statement 7 (PPS 7): Quality Residential Environments where Policy QD 1 sets out the main criteria which the proposal has to meet.

Policy QD 1 of PPS 7 states that all proposals for residential development will be expected to conform to stated criteria:

The site is located within the limit of development for the Bush, as defined by the Dungannon and South Tyrone Area Plan 2010 (DAP). The lands do not have a specific zoning. In my opinion, the proposal respects the surrounding context, character and topography in terms of layout, scale and proportions. No features of archaeological or built heritage have been identified, and identified landscape features have been protected and integrated in a suitable manner into the overall design and layout of the development; adequate provision is made for public and private open space and landscaped areas. The movement pattern can support walking and cycling; meets the needs of people whose mobility is impaired; respects existing public rights of way; provides adequate and convenient access to public transport and

incorporates traffic calming measures; adequate and appropriate provision is made for parking; the design of the development draws upon the best local traditions of form, materials and detailing; the design and layout will not create conflict with adjacent land uses and there is no unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light, overshadowing, noise or other disturbance; and the layout is designed to deter crime and promote personal safety.

**Other Policy and Material Considerations:**

During the processing of the application objections have been received in respect of the following matters,

Right of way strip to rear of existing properties, including private access

The owners of existing properties on Mullaghteige Road had an agreement with the previous landowner in relation to a service strip to the rear of their properties. Original plans for the proposed development had indicated that this area was to be planted however, subsequent amendment to the layout now indicates that the strip is to be defined by a timber boarded fence with separate access. The objectors were notified of the amendments and no further correspondence has been received.

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

The Department of the Environment has published its Strategic Planning Policy Statement for Northern Ireland (SPPS): Planning for Sustainable Development. This policy is a consolidation of some twenty separate policies however the policy provisions of Planning Policy Statement 7: Quality Residential Environments is retained until such time as the Mid Ulster Council adopt a Plan Strategy for the Council area, no other issues have been identified.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

I recommend that planning permission is granted subject to conditions.

**Conditions**

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

Reason: Time Limit.

2. All landscaping comprised in the approved details of landscaping (drawing no 24 dated received 7/3/22) shall be carried out in the first planting season following the commencement of 50% of the development hereby approved and 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 ensure the provision, establishment and maintenance of a high standard of landscape.

3. The vehicular access, including visibility splays of 2.4m by 70.0m / tangent in both directions, shall be provided in accordance with Drawing No 20 Rev 3 stamp date 02 August 2021 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.

4. 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.

5. 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.

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

The Mid Ulster District Council hereby determines that the width, position and arrangement of the streets, and the land to be regarded as being comprised in the streets, shall be as indicated on Drawing No 20 Rev 3 stamp date 02 August 2021.

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.

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

No other development hereby permitted shall be commenced until the works necessary for the improvement of a public road have been completed in accordance with the details outlined blue on Drawing Number 20 Rev 3 stamp date 02 August 2021. The Department hereby attaches to the determination a requirement under Article 3(4A) of the above Order that such works shall be carried out in accordance with an agreement under Article 3 (4C).

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

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

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

9. No dwelling hereby permitted shall be occupied until the street lighting has become operational for that part of the service road which provides access to it as indicated on Drawing No 20 Rev 3 stamp date 02 August 2021.

Reason: To ensure the orderly development of the site and that there is a safe and convenient road system within the development.

10. Prior to the commencement of any of the approved development on site, a final drainage assessment, containing a detailed drainage network design and compliant with Annex D of PPS 15 shall be submitted to the Planning Authority for its consideration and approval.

Reason: To safeguard against flood risk to the development and elsewhere.

**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. Department for Infrastructure Roads Informatives:

1.The applicant must apply to the Dfi Roads for a licence indemnifying the Department against any claims arising from the implementation of the proposal.

2.The Private Streets (Northern Ireland) Order 1980 and The Private Streets (Amendment) (Northern Ireland) Order 1992.

Under the above Orders the applicant is advised that before any work shall be undertaken for the purpose of erecting a building the person having an estate in the land on which the building is to be erected is legally bound to enter into a bond and an agreement under seal for himself and his successors in title with the Department/Dfi to make the roads (including road drainage) in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001. Sewers require a separate bond from Northern Ireland Water to cover foul and storm sewers.

3.Separate approval must be received from Dfi in respect of detailed standards required for the construction of streets in accordance with The Private Streets (Construction) Regulations (Northern Ireland) 1994 and The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001.

4.Under the terms of The Private Streets (Construction) (Amendment) Regulations (Northern Ireland) 2001, design for any Street Lighting schemes will require approval from Dfi Roads Street Lighting Consultancy, Marlborough House, Craigavon. The Applicant is advised to contact Dfi Roads Street Lighting Section at an early stage to agree a works programme for works associated with relocating of any existing street light columns. The Applicant/Developer is also responsible for the cost of supervision of all street works determined under the Private Streets Order (Northern Ireland) 1980.

5. 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.

6. It is a Dfi requirement that all structures which fall within the scope of the current version of BD 2 Technical Approval of Highways Structures: Volume 1: Design Manual for Roads and Bridges shall require Technical Approval. Details shall be submitted to the Technical Approval Authority through the relevant Division.

7. The development shall not be commenced 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 Dfi. 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?

REASON: In the interests of road safety.

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

9. Notwithstanding the terms and conditions of the Department of Environment'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 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 Section Engineer whose address is Section Office Main Street, Moygashel, Dungannon. A monetary deposit will be required to cover works on the public road.

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

11. Highway design shall be in accordance with the current relevant standards of the Design Manual for Roads and Bridges. In exceptional circumstances Departures from Standard maybe necessary and shall be supported by a full technical, safety, environmental and economic justification. All details shall be submitted to Network Services through the relevant Division.

12. 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.

13. Notwithstanding the terms and conditions of the Department's approval set out above, you are required under the Street Works (Northern Ireland) Order 1995 to be in possession of a Street Works Licence before any work is commenced which involves making any opening or placing of any apparatus in a street. The Street Works Licence is available on personal application to the Department for Infrastructure Section Engineer whose address is Section Office, Moygashel, Dungannon.

14. 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 Regional Development'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.

15. The developer is required to enter into a licence agreement with the Department for Infrastructure, for the carrying out of the road works approved, prior to the commencement of any works to the public road network.

The licence agreement shall be issued through the Development Control Officer, Network Planning Section, Western Division, County Hall, Omagh and the developer should allow up to three months for completion of the licence. Accordingly the developer is advised to make an early personal application for the issue of the licence. He should also initiate early discussions for the satisfactory programming of the road works with the Private Streets Engineer, Consultancy at County Hall, Omagh.

3. Environmental Health Department comment:

This department has examined the information submitted in support of the application. In relation to the High Pressure Pipeline, HSENI do not advise against as it is not within the consultative distance. Environmental Health have no further comment to make.

4. Department for Infrastructure Rivers Informatives:

DfI Rivers have assessed your consultation and our comments, under each policy heading of PPS 15 are as follows:

PPS15 Policy FLD 1 Development in Fluvial (River) and Coastal Flood Plains

The Strategic Flood Map (NI) indicates that the development does not lie within the 1% AEP fluvial flood plain. Hence DfI Rivers would have no specific reason to object to the proposed development from a fluvial flood risk perspective.

PPS15 Policy FLD 2 Protection of Flood Defence and Drainage Infrastructure

The site is unaffected by a designated watercourse and information available from OSNI maps and a site inspection did not reveal any obvious undesignated watercourses. DfI Rivers does not keep a record of undesignated watercourses so the site may be affected by one. If a watercourse is discovered during the development of the site, then Policy FLD 2 will apply.

PPS15 Policy FLD 3 Development and Surface Water (Pluvial) Flood Risk Outside Flood Plains

DfI Rivers has reviewed the Additional Information by Lisbane Consultants, dated 30th April 2021, alongside the Drainage Assessment (DA), dated November 2020 and comments as follows;

DfI Rivers, while not being responsible for the preparation of the Assessment accepts its logic and has no reason to disagree with its conclusions.

It is brought to the attention of the applicant that the responsibility for justifying the Assessment and implementation of the proposed flood risk measures (as laid out in the assessment) rests with the developer and his/her professional advisors (refer to section 5.1 of Revised Planning Policy Statement 15).

The DA states they proposed to attenuate more than the 30 year event in the drainage network including the attenuation system. Therefore DfI Rivers requests that the planning authority includes a Condition as part of its planning permission if granted.'

PPS15 Policy FLD 4 Artificial Modification of Watercourses

Not applicable to this site

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

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

5. Northern Ireland Water comments:

See attached information sheet dated 7/1/20.

6. Department for the Economy - Geological Survey of Northern Ireland:

Geological Survey of Northern Ireland (GSNI) assessed the planning proposal in view of stability issues relating to abandoned mine workings.

A search of the Geological Survey of Northern Ireland 'Shafts and Adits Database' indicates that the proposed site is not in the vicinity of any known abandoned mine workings.

This letter summarises the information currently held by GSNI. We acknowledge that our databases may not be comprehensive and that in certain circumstances the precise location of features and boundaries cannot be guaranteed as being accurate. I would therefore draw your attention to the attached Conditions and Limitations.

Conditions and Limitations:

Use by the customer of information provided by the Geological Survey of Northern Ireland is at the customer's risk. The Department for the Economy gives no warranty, expressed or otherwise implied as to the quality or accuracy of information supplied by the Survey. The report provides only general indications of ground conditions and must not be relied upon as a source of detailed information about specific areas or as a substitute for site investigation or ground surveys. Users must satisfy themselves, by seeking appropriate professional advice and carrying out ground surveys and site investigations if necessary, that the ground conditions are suitable for any particular use or developments.

7. Health and Safety Executive:

The Health and Safety Executive for Northern Ireland (HSENI) is a statutory consultee for developments within the consultation distance's (CD's) of high pressure gas transmission pipelines and/or major hazard installations regulated under the Control of Major Accident Hazards Regulations (Northern Ireland) 2015 (COMAH). We should also be consulted regarding developments within 100 metres of the boundary of a quarry.

This proposed development is not within the consultative distance of a High Pressure pipeline, therefore HSENI Do Not Advise Against;

However it may be close to an intermediate pressure pipeline (up to 7 bar) and we would recommend the developer liaise with the pipeline operator. Any excavation work done near underground utilities such as gas should follow the guidance outlined in HSE guidance document HSG47 Avoiding danger from underground services.

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

<b>ANNEX</b>	
<b>Date Valid</b>	7th December 2020
<b>Date First Advertised</b>	22nd December 2020
<b>Date Last Advertised</b>	
<p><b>Details of Neighbour Notification</b> (all addresses)</p> <p>The Owner/Occupier, 1 Beechill Park,Bush,Tyrone,BT71 6QY</p> <p>The Owner/Occupier, 1 Hawthorn Grove Bush Tyrone</p> <p>The Owner/Occupier, 12 Mullaghteige Road,Dungannon,Tyrone,BT71 6QU</p> <p>The Owner/Occupier, 14 Mullaghteige Road Dungannon Tyrone</p> <p>The Owner/Occupier, 17 Mullaghteige Road,Dungannon,Tyrone,BT71 6QU</p> <p>The Owner/Occupier, 18 Mullaghteige Road Dungannon Tyrone Bobbie &amp; Alison Falloon 18, Mullaghteige Road, Dungannon, Tyrone, Northern Ireland, BT71 6QU</p> <p>The Owner/Occupier, 19 Mullaghteige Road,Dungannon,Tyrone,BT71 6QU</p> <p>The Owner/Occupier, 19a ,Mullaghteige Road,Dungannon,Tyrone,BT71 6QU</p> <p>The Owner/Occupier, 2 Hawthorn Grove Bush Tyrone</p> <p>The Owner/Occupier, 20 Mullaghteige Road Dungannon Tyrone Rose Falloon 20, Mullaghteige Road, Dungannon, Tyrone, Northern Ireland, BT71 6QU</p> <p>The Owner/Occupier, 21 Mullaghteige Road,Dungannon,Tyrone,BT71 6QU</p> <p>The Owner/Occupier, 22 Mullaghteige Road Dungannon Tyrone</p> <p>The Owner/Occupier, 3 Hawthorn Grove Bush Tyrone</p> <p>The Owner/Occupier, 4 Hawthorn Grove Bush Tyrone</p> <p>The Owner/Occupier, 5 Beechill Park,Bush,Tyrone,BT71 6QY</p> <p>The Owner/Occupier, Bush Primary School,31 Mullaghteige Rd,The Bush,Dungannon,BT71 6QU</p>	
<b>Date of Last Neighbour Notification</b>	17th November 2021

<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<p>Ref ID: LA09/2018/0420/F          Proposal: Erection of 10 dwellings (6 Detached and 4 semi detached)          Address: Immediately to the rear of and adjacent to Nos 12, 14, 18 and 20 Mullaghteige Road, Bush, Dungannon,          Decision: PG          Decision Date: 22.09.2020</p>	
<b>Summary of Consultee Responses</b>	
No objections subject to conditions and informatives	
<b>Drawing Numbers and Title</b>	



Drawing No. 01(REV 1)  
Type: Site Location Plan  
Status: Approved

Drawing No. 02(REV 2)  
Type: Site Layout or Block Plan  
Status: Approved

Drawing No. 03  
Type: Garage Plans  
Status: Approved

Drawing No. 04  
Type: Proposed Plans  
Status: Approved

Drawing No. 05  
Type: Proposed Plans  
Status: Approved

Drawing No. 06  
Type: Proposed Plans  
Status: Approved

Drawing No. 08  
Type: Proposed Plans  
Status: Approved

Drawing No. 09  
Type: Proposed Elevations  
Status: Approved

Drawing No. 10  
Type: Proposed Plans  
Status: Approved

Drawing No. 11  
Type: Proposed Elevations  
Status: Approved

Drawing No. 12  
Type: Proposed Plans  
Status: Approved

Drawing No. 13  
Type: Proposed Elevations  
Status: Approved

Drawing No. 14  
Type: Proposed Plans  
Status: Approved

Drawing No. 15  
Type: Proposed Elevations  
Status: Approved

Drawing No. 16  
Type: Proposed Plans  
Status: Approved

Drawing No. 17  
Type: Proposed Elevations  
Status: Approved

Drawing No. 18  
Type: Proposed Plans  
Status: Approved

Drawing No. 19  
Type: Proposed Elevations  
Status: Approved

Drawing No. 20(REV 3)

Type: Roads Details  
Status: Approved

Drawing No. 21  
Type: Road Access Plan  
Status: Approved

Drawing No. 22  
Type: Miscellaneous  
Status: Approved

Drawing No. 23(REV 1)  
Type: Site Levels  
Status: Approved

Drawing No. 24  
Type: Landscaping Plan  
Status: Approved

Drawing No. LANDSCAPE MANAGEMENT PLAN  
Type:  
Status: Approved

**Notification to Department (if relevant)**

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

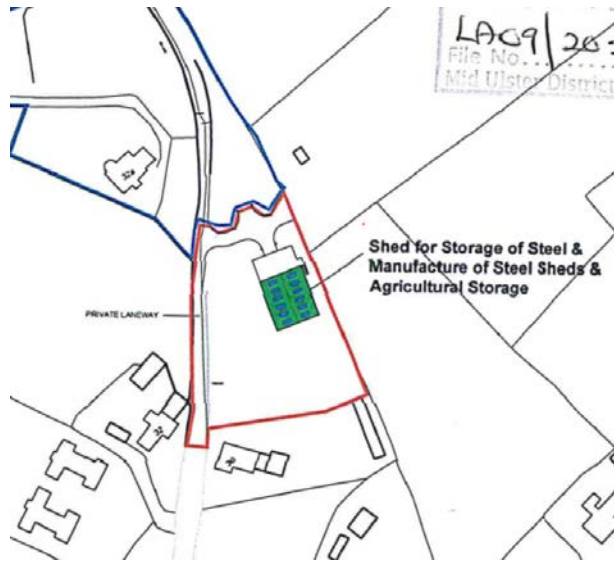


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0031/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective application for the storage of steel and assembly of steel sheds along with part storage of farm agricultural equipment under CTY 8 and CTY 12 of PPS 21	<b>Location:</b> 70m South East of 32A Mayogall Road Gulladuff Magherafelt
<b>Referral Route:</b> <ul style="list-style-type: none"> <li>• Recommended refusal</li> <li>• 1no. Objection</li> </ul>	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mr Daman Brown 32A Mayogall Road Gulladuff Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply with any policy set out under PPS 21 or PPS 4. One letter of representation has been received which is considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Historic Environment Division	Content
Non Statutory	Environmental Health MUDC	Substantive Response

#### Representations:

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

#### Characteristics of the Site and Area

The application is located approx. 70m South East of 32A Mayogall Road, outside the designated settlement limits of Gulladuff as identified in the Magherafelt Area Plan 2015. The site comprises a rectangular field with a large shed subject to this application

currently present on site. The topography of the site is relatively flat. The south and west boundaries of the site are defined by mature hedging. The eastern boundary is defined by post and wire fencing and the northern boundary is currently undefined. It is noted foundations for a dwelling were in place immediately to the north outside the red line. The site currently accesses onto a private laneway and comes to a dead-end north of the application site. I note that the immediate and surrounding area is characterised by predominately agricultural land uses to the north, with greater development pressure to the south which is within the settlement limits of Gulladuff. It is noted that there is a number of planning approvals granted in recent years in proximity of the site.

### **Description of Proposal**

This is a full planning application seeking retrospective permission for a shed to be used for the storage of steel, manufacturing of steel sheds and agricultural storage located 70m South East of 32A Mayogall Road, Gulladuff.

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

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

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

Regional Development Strategy 2030  
 Strategic Planning Policy Statement for Northern Ireland  
 Magherafelt Area Plan 2015  
 Planning Policy Statement 3: Access, Movement and Parking  
 Planning Policy Statement 4: Planning and Economic Development  
 Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing 1no. Objection letters had been received from Mr Liam Ward on behalf of his client. The concerns detailed in the objection letters are outlined and considered below.

- The applicant does not own the land therefore the declaration of entitlement of fee simple absolute interests in the lands is incorrect.
- The proposal is not infill development therefore cannot rely upon CTY8. The planning approval north of the application site has not been built and the applicant is not in control of that land.

- No evidence to suggest the applicant has an active farm business or in support of the proposal complying with CTY12.
- The application is weak and should be refused without delay and there should be no pause in enforcement proceedings or the issuance of an enforcement notice.

With respect the first point on the land ownership, it is noted that planning permission does not confer title and land ownership is outside the remit of planning and a civil matter between the applicant and the objectors. However, the P1 Form signed and declared that at the time of submission the applicant is in actual possession of every part of the land to which the application relates and entitled to a fee simple absolute. Given there has been a challenge to this certificate of ownership, the agent was asked to provide clarification which was requested on 11<sup>th</sup> March 2021 with several reminders since however to date no clarification has been received. The Planning Department has since carried out a Land Registry Check of the application site and it appears the applicant is not in possession of the land which the application relates. As Certificate A appears to be wrongly completed, this may invalidate the application and this should be considered further by Members. With respect the argument the proposal fails CTY 8 and CTY 12, the application will be considered against the prevailing planning policy under PPS21 in greater detail below. With respect the comments regarding enforcement proceedings, the applicant site is currently subject to an enforcement case. All enforcement cases are processed in line with Mid Ulster Enforcement Strategy and the investigation process is not a matter of consideration under this application.

### **History on Site**

LA09/2020/0126/CA - Alleged unauthorised mobile home, building and site works as well as the unauthorised erection of an engineering building with associated yard area - Lands 40m SE Of 32a Mayogall Road, Gulladuff, Londonderry

LA09/2021/0513/O - Replacement dwelling and garage - Lands 105m North of 30 Mayogall Road, Gulladuff, Magherafelt – Permission Granted 14/05/21

LA09/2020/0037/RM - Proposed dwelling - 40m SE of 32a Mayogall Road, Gulladuff, Magherafelt, BT45 8PD – Permission Granted 22/04/20

LA09/2018/0666/O - New farm dwelling and garage - 40m SE of 32a Mayogall Road, Gulladuff, Magherafelt, BT45 8PD – Permission Granted 06/11/19

LA09/2020/0196/O - Proposed infill dwelling and garage between No 32 & 32A Mayogall Road, Gulladuff – Permission Granted 22/04/19

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

Magherafelt Area Plan 2015 – the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings. The settlement limit of Gulladuff is located immediately to the south.

The Strategic Planning Policy Statement for Northern Ireland – The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained

policy must be resolved in the favour of the provisions of the SPPS. SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. Policy CTY1 outlines that there are certain instances where development is considered acceptable in the countryside subject to certain criteria. The description of the application is ‘Retrospective application for the storage of steel and assembly of steel sheds along with part storage of farm agricultural equipment’ under CTY 8 and CTY 12 of PPS 21.

Policy CTY 8 provides an exception in certain circumstances for the infilling of a small gap site with an appropriate economic development proposal including light industry where this is of a scale in keeping with adjoining development, is of a high standard of design, would not impact adversely on the amenities of neighbouring residents and meets other planning and environmental requirements. For the purpose of this policy a small gap site should be located along a substantial and built up frontage which is defined as a line of 3 or more buildings along a road frontage without accompanying development to the rear. It was noted on the date of the site inspection, foundations were in place for a dwelling approved immediately north of the application site, however this does not constitute a building for the purposes of this policy. Therefore, the application site does not represent a gap within a line of 3 or more buildings to satisfy this policy test. The applicant has provided no supporting information to accompany this application therefore it is unclear whether the use of the shed will be light or general industrial. The scale is not considered to be in keeping with adjoining development and the proposal has the potential to negatively impact residential amenity. Environmental Health (EH) were consulted on this application and advised given the nature of the proposal, there is the potential to impact the nearby residents due to noise from steel assembly and movement around the site. EH have requested a noise impact assessment (NIA) to demonstrate that the proposal will not impact these neighbouring residential properties. The agent was made aware of this on 25<sup>th</sup> November 2021 however to date this has not been addressed and as well as the principle of development it is considered necessary this is considered further should members consider granting planning permission.

The agent was made aware on 11<sup>th</sup> March 2021 that it was considered the proposal failed to meet the policy criterion of CTY 8 and he was given the opportunity to set out the policy context he is relying on for the proposed development, however to date no supporting information has been forthcoming. The description refers to the ‘part storage of farm agricultural equipment’. Policy CTY 12 relates to Agricultural and Forestry Development and states planning permission will be granted for development on an active and established agricultural or forestry holding subject to criteria. The applicant has failed to provide any supporting information to demonstrate this is an active and established agricultural holding; failing to submit a P1C form or farm maps. It is therefore considered this proposal fails to comply with Policy CTY 12.

Policy CTY 1 advises that planning permission will be granted for industry and business uses in accordance with PPS 4. Therefore if the development complies with the provisions of PPS4 it will comply with Policy CTY1 of PPS21.

Planning Policy Statement 4 (PPS4): Planning and Economic Development -Policy PED2 states that proposals for economic development uses in the countryside will be permitted in accordance with the provisions of the following:

- Policy PED 3 - The expansion of an Established Economic Development Use
- Policy PED 4 – The Redevelopment of an Established Economic Development Use
- Policy PED 5 - Major Industrial Development
- Policy PED 6 – Small Rural Projects

All other proposals for economic development in the countryside will only be permitted in exceptional circumstances. No evidence has been provided that the proposal relates to an existing established economic development use in the countryside and it is not considered major industrial development, therefore PED 3, 4 and 5 do not apply.

On 25<sup>th</sup> November 2021, the applicant was given the opportunity to put forward a case under PED 6 Small Rural Projects. PED6 requires that it is clearly demonstrated that there is no suitable site within the settlement; and the proposal would benefit the local economy or contribute to community regeneration. The agent to date has not provided any response and in the absence of any supporting information I do not consider the criteria of Policy PED 6 have been met.

PED 2 states “All other proposals for economic development in the countryside will only be permitted in exceptional circumstances”. As no evidence has been provided to argue why this proposal is necessary in this location and cannot be sited within settlement limits, I do not consider it should be treated as an exception.

Policy PED 9 states a proposal for economic development use, in addition to the other policy provisions of this Statement, will be required to meet all criteria as discussed below:

- a) The proposal is located on a private lane which serves a number of residential properties. The surrounding area is rural in character and it is considered the introduction of a large industrial shed is incompatible with the adjacent rural land uses.
- b) The separation distance between the subject shed and the third party dwellings of No.30 and No.32 is approx. 44m. EH have raised that the development has the potential to adversely impact the amenity of these properties and no information has provided to demonstrate otherwise. Given the nature of the development, it is considered there is the potential for noise disturbance due to the assembly of step and the visitors and traffic to the site.
- c) No features of natural heritage have been identified that would be impacted by the proposal. The application site is located in proximity to a scheduled monument (LDY 37: 12). HED were consulted and have advised on the basis of the information provided they are content that the proposed building will read with existing buildings in views from the scheduled monument.
- d) The site is not located within a flood zone.
- e) As stated previously, EH have raised concerns of potential noise nuisance to nearby residents. EH require a noise impact assessment however this has not been requested at this stage as the principle of development is not considered acceptable. Should Members disagree with the recommendation set out in this report, it is considered the impact of noise nuisance should be fully addressed.



- f) The P1 form states trade effluent will be disposed by Garage Waste Management solutions. Environmental Health have not raised any issues of concern regarding emissions or effluent.
- g) The proposal site is located on a private laneway. DFI Roads have not offered any objections and advised from the information stated in the P1 Form, neither the size of development or vehicles expected reach the threshold for the TAF to be completed in detail.
- h) DFI roads have advised the private lane which the application fronts onto accesses directly onto the end of the adopted Priestown Road (which is a dead end road) and sightlines therefore are not applicable. There appears to be adequate space for parking to accommodate the expected 5 vehicles to the site daily.
- i) The proposal to locate a business outside settlement limits does not support modes of transport other than by vehicles. Whilst I acknowledge it would be difficult to walking and cycling to the site or provide adequate and convenient access to public transport given the rural location, nevertheless this criterion is not fully met.
- j) The proposal layout and the building design are typical of an industrial unit. Whilst the design is not considered to be of a particularly low quality, I consider given there is no support for the development within PPS21 it is unsuitable to the location will negatively impact on rural character. Overall therefore, I do not consider that the site layout, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity.
- k) On the date of the site inspection, the roadside and southern boundary were partially defined by hedging. However the NW portion of the site was undefined and the north and east boundaries were also undefined. It is therefore considered appropriate boundary treatment and means of enclosure has not been provided.
- l) In general, the proposal will deter crime and promote personal safety.
- m) Given the relatively undefined boundaries, it is considered satisfactory measures are not in place to assist integration into the landscape of this large industrial shed.

The proposed development does not comply with PPS4 therefore it fails to comply with any policy under CTY1 of PPS21. There are no overriding reasons why the development is essential and could not be located in a settlement. The proposal also falls to be considered under the relevant policies for integration and rural character which are PPS 21; Policies CTY 13 and 14.

Policy CTY13 makes provision for development in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. However, where a proposal fails to satisfy any of the policy criteria, it will be deemed to be unacceptable. The proposed development fails to satisfy criterion (b) and (c) in that it is unable to provide a suitable degree of enclosure for the building to integrate into the surrounding landscape and would inevitably rely on new landscaping to aid integration.

Policy CTY 14 allows for development which will not cause a detrimental change to or further erode rural character. The appeal site is located on a small rural site directly outside the settlement limits of Gulladuff. There is a dwelling immediately to the NW and foundations in place of an approved dwelling immediately north and the remaining

landscape to the north is rural in character comprising agricultural fields. The development results in the visual consolidation between the existing rural dwelling to the north and the built form to the south within Gulladuff settlement limit. The proposed development would have a detrimental impact on rural character due to this consolidation which would also mar the distinction between the settlement of Gulladuff and the surrounding countryside. Therefore the proposal is contrary to PPS 21: Policies CTY 14 and CTY 15.

PPS 3: Access, Movement and Parking - The application site seeks to access onto a private laneway there for DFI roads have advised that sightlines are not applicable and they have raised no objections.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal:**

1. The proposal is contrary to Magherafelt Area Plan 2015, the Strategic Planning Policy Statement and Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Planning Policy Statement 4, Planning and Economic Development: Policy PED 9 - General Criteria for Economic Development, in that:
  - the proposal is incompatible with surrounding land uses;
  - insufficient information has been provided to demonstrate it will not harm residential amenity or result in a noise nuisance;
  - the proposal fails to provide a movement pattern is provided that supports walking and cycling or provide adequate access to public transport;
  - it has not been demonstrated that the layout and design assist the promotion of sustainability and biodiversity;
  - the proposal fails to prove appropriate boundary treatment and means of enclosure to assist integration into the landscape.
3. The proposal is contrary to the Strategic Planning Policy Statement and Policy PED 6 of Planning Policy Statement 4 Planning and Economic Development in that insufficient information has been provided to demonstrate that there are no suitable sites within settlement limits and the proposal would benefit the local economy or contribute to community regeneration.
4. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the site lacks long established natural boundaries and would inevitably rely primarily on the use of new landscaping for integration

5. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the proposed building would, if permitted, result in an unacceptable build-up of development when viewed with existing buildings and would therefore result in a detrimental change to the rural character of the countryside.
  
6. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the proposed building would, if permitted, mar the distinction between Gulladuff and the surrounding countryside.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0185/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling	<b>Location:</b> South East of 31a Corvanaghan Road Cookstown
<b>Referral Route:</b>  To Committee – Approval – One objection received.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Oliver Mc Kenna 15 Corvanaghan Road Cookstown	<b>Agent Name and Address:</b> CQ Architects 23 Dunamore Road Cookstown BT80 9NR
<b>Executive Summary: Approval</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

### Representations:

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

### Summary of Issues

To Committee - Approval - One objection received.

### Characteristics of the Site and Area

The site is located approximately 2.7km east of the development limits of Dunamore, as such the site is located within the open countryside as per defined by the Cookstown Area Plan 2010. Given the nature of the application I note that the red line is in two portions, one part covers an agricultural field which hosts the building to be replaced. Where the second part is a large portion of the neighbouring field where the applicant intends to locate the new dwelling. I note both fields rise from the Corvanaghan Road and are bounded by mature vegetation on all boundaries. I note that the immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties with a working quarry to rear of the building being replaced.

#### Representations

Five neighbour notifications were sent out however there was one objection received. Objectors main issue raised is the failure of policy.

#### Relevant planning history

I/2003/0165/O - Proposed replacement dwelling - 80 Metres North West of 29 Corvanaghan Road, Cookstown - Permission refused - 11.03.2004

I/1999/0426/O - Site for Replacement Dwelling - 80m North West of 29 Corvanaghan Road, Cookstown – Permission Granted - 12.05.2000

### **Description of Proposal**

This is an outline application for a proposed replacement dwelling located south east of 31a Corvanaghan Road, Cookstown.

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

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Cookstown Area Plan 2010  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 3 - Replacement Dwellings

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. For the purposes of this policy all references to 'dwellings' will include buildings previously used as dwellings. Buildings designed and used for agricultural purposes, such as sheds or stores, and buildings of a temporary construction will not however be eligible for replacement under this policy. Policy states that if the dwelling does not make an important contribution to the heritage, appearance or character of the locality, planning permission will be granted for a new dwelling. In such cases the retention of the existing structure will be accepted

where it is sympathetically incorporated into the layout of the overall development scheme, for example as ancillary accommodation or a store, to form an integrated building group.

Upon my site visit, I note that the building is being used for agricultural purposes and has been adapted to look more like an agricultural shed with metal sheeting being fitted on the external walls with new block work. Upon further inspection, it was clear that there are two existing fireplaces with the relevant chimneys, in addition there are evidence of domestic sized windows and door openings. However, I have concerns whether the building is substantially intact, as noted more modern works have been undertaken to make it fit for use however if this was stripped away I would have concerns that the existing dwelling would be able to be seen as substantially intact..



As seen above there appears to be an existing brick fireplace but it appears to have no connection to the tin structure which appears to be built around the fireplace. I note that the site has an extensive history, in which approval was attained for a replacement dwelling under I/1999/0426/O. I do note that a refusal was issued under I/2003/0165/O but on the grounds of amenity and did not dispute that this was ever a dwelling. From such I acknowledge the history and after further discussions it has been agreed that the works mentioned above were done for two reasons; first was to ensure that the building still stood kept the replacement opportunity available. Second was to allow the building to have a use and to not become derelict and fall into disrepair. With this in mind I hold the opinion on balance that replacement opportunity still exists.

In addition, the policy goes on to state that the proposed replacement should be sited within the established curtilage of the existing, unless either a) the curtilage is so restricted that it could not reasonably accommodate a modest sized dwelling, or b) it can be shown that an alternative position nearby would result in demonstrable landscape, heritage, access or amenity benefits.

Whilst I acknowledge the concerns over the dwelling, I note that the building being replaced does not have anything in the way of an existing curtilage rather it is sitting in the existing field. I do note that there is an existing working quarry to the rear of the existing building, I note that a previous replacement application was refused on the site on the basis that 'the development if permitted would prejudice the safety and amenity of occupants of the dwelling as it would be in close proximity to mineral workings'. As such I am content that an off-site location would be required in terms of amenity benefits. I



note that in the submitted plans the applicant has indicated a preferred location however I am of the opinion that any dwelling should be located closer to the boundary along the Corvanaghan Road in a similar line to Nos. 31 and 31a Corvanaghan Road, to allow it to reflect the pattern of development but having demonstrable amenity benefits. (As seen below in red). I note a subsequent plan was submitted to show this location as preferable.



The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. I note that this is only an outline application, therefore exact size, design and siting have not been agreed however I am content that an appropriately designed dwelling will not appear as a prominent feature in the landscape. I note that there is a level of screening provided by the existing landscaping which should be retained where best possible and supplemented with additional landscaping to ensure integration. Therefore, a landscaping plan will be required to part of any Reserved Matters application. Given the landform and the surrounding development I feel it necessary to restrict any new dwelling to have a ridge height of no more than 6.5m above finish floor level. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. Given the landform I am content that an appropriately designed will not be unduly prominent in the landscape. In addition, I am content that a dwelling in this location will not result in a suburban style build-up of development. From this I am of the opinion that this development is able to respect the traditional pattern of settlement exhibited in the area. From this I am content that the local landscape has the capacity to absorb the development and in addition the proposal will not result in the creation of additional development opportunities that already exist. I am therefore content that the proposal is able to comply with the criteria of CTY 14.

I note that consultations were also sent to the Health Safety Executive for NI and Environmental Health. Taking the Health Safety Executive first, in their response confirmed that they carried out a site visit, confirmed that there will certainly be noise from lorry movements, reversing sirens on lorries and mobile plant, the operation of the



tar plant etc. Depending on wind direction there could be issues surrounding dust and fumes from the tar plant. The blasting operations within the quarry can come to within approximately 150m from this site. The topography is such the quarry faces would not be overlooking this proposed site and the direction of blasting would be into the quarry and away from this site. There will be noise, dust and ground vibrations from blasting operations. For all of the above reasons the occupants of this proposed new dwelling may register nuisance complaints. Went on to confirm that they had no objections to the proposal however wanted an informative added informing the applicant of the presence of the quarry and the potential for nuisance coming from noise, ground vibrations, dust and fumes from the nearby quarry operation. Concluded that in order to improve the site amenity it may be better to move the position of the house on the site to a more southern position, currently it is shown on a northern position. This accords with my opinion to replace the dwelling in line with Nos. 31 and 31a Corvanaghan Road.

Environmental Health in their response stated the application site is adjacent to an active quarry which may give rise to excessive noise or dust levels at the application site. No information has been submitted by the applicant in support of the application to demonstrate that the amenity of the proposal will not be detrimentally affected by noise or dust. In the absence of such information, we would have concerns around the granting of planning approval. From such the agent provided a noise assessment with a number of recommendations contained within it, another consultation was sent to Environmental Health.

In their final response stated, this application for a proposed dwelling at the above property has been considered along with the submitted inward sound level impact assessment date stamped 23rd February 2022. The noise assessment considers the noise from the adjacent quarry plant and associated activities and their impact on this proposed dwelling. Noise measurements were obtained from the locality and showed that daytime noise levels were within acceptable levels but night-time noise exceeded the levels outlined in quarry guidance. The Consultancy has advised that the applicant should design any future development with the dwelling situated between the quarry and garden/outdoor areas to provide quality outdoor amenity space. To protect internal rooms from quarry noise from any future residential development; the Consultancy has advised that glazing and alternative ventilation (to that of an open window) be incorporated into the building design. To that end, it has been suggested that each window design and an acoustically attenuated ventilation with a sound reduction index of 24 dB R<sub>Tra</sub> or greater. We therefore have no objection to this proposal subject to conditions. On review of this I am content that the proposed siting minimises all potential impact on amenity.

### PPS 3: Access, Movement and Parking

I note given the off-site nature of this application that a new access would be required, therefore a consultation was sent out to DFI Roads. Who in their response confirmed that they had no objections to the proposal subject to conditions.

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

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

I have no flooding or ecological concerns.

In response to the comments and issues raised by the objector; I note that the main body of the objection is in relation to the failure of CTY 3. I note that this report has analysed CTY 3 in depth and has made a recommendation, in turn it has addressed each point raised. I acknowledge the comments made by the objector over whether the building is substantially intact or not, this issue has been addressed previously. In terms of the essential characteristics of a dwelling, I acknowledge the comments made by the objector but I hold the opinion that the application has been successful in demonstrating that at one point it was a dwelling. In terms of the proposed siting, as noted there does not appear to be anything in the way of an existing curtilage but I am content that the dwelling located in the south western corner of the site adjacent to No. 31a Corvanaghan Road would be to considered to have demonstrable amenity benefits in comparison to replacing insitu despite the comments raised by the objector.

The proposal has complied under CTY 1 and 3 of PPS 21, as such I must recommend Approval for this application.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval

**Conditions:**

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

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

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

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

3. The proposed dwelling shall have a ridge height of no more than 6.5 metres above finished floor level and a low angle of roof pitch not exceeding 40 degrees.

Reason: To ensure that the development is not prominent and satisfactorily integrated into the landscape.

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

Reason: In the interest of visual amenity.

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

Reason: To ensure the dwelling integrates into the landform.

6. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and details of a native species hedge to be planted to the rear of the of the visibility splays. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: In the interests of visual amenity, to protect the rural character of the countryside and ensure the development satisfactorily integrates into the countryside.

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

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

8. If any retained tree is removed, uprooted or destroyed or dies within 5 years from the date of the occupation of the building for its permitted use another tree or trees shall be planted at the same place and that/those tree(s) shall be of such size and species and shall be planted at such time as may be specified by the Council.

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

9. The dwelling hereby permitted shall not be occupied until the existing building, coloured green on the approved plan 01/1 date stamped 18th October 2021 is demolished, all rubble and foundations have been removed.

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

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

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

11. The proposed dwelling shall be sited in the area shaded yellow on the approved plan 01/1 date stamped 18<sup>th</sup> November 2021.

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

12. Glazing capable of achieving a sound reduction index of at least 24 dB R<sub>Tra</sub> shall be installed in all windows and or doors of the approved dwelling.

Reason: To protect future occupants from nearby quarry noise

13. Mechanical ventilation capable of achieving a sound reduction index of at least 24 dB R<sub>Tra</sub> shall be installed in any approved dwelling.

Reason: To protect future occupants from nearby quarry noise

#### Informatives

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

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

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	9th February 2021
<b>Date First Advertised</b>	23rd February 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Beltonanean Road Cookstown Tyrone The Owner/Occupier, 27 Corvanaghan Road Cookstown Tyrone The Owner/Occupier, 29 Corvanaghan Road Cookstown Tyrone The Owner/Occupier, 31 Corvanaghan Road Cookstown Tyrone The Owner/Occupier, 31a Corvanaghan Road Cookstown Patrick Keenan Corvanaghan Quarry, 29 Corvanaghan Road, Cookstown, BT80 9TN	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0185/O Proposal: Proposed replacement dwelling Address: South East of 31a Corvanaghan Road, Cookstown, Decision: Decision Date:  Ref ID: I/2001/0556/O Proposal: Proposed Site for New Dwelling and Garage Address: 50m SE of No 31 Corvanaghan Road Cookstown Decision: Decision Date: 14.02.2002  Ref ID: I/2002/0224/F Proposal: Proposed dwelling & garage Address: 50 Metres South East of 31 Corvanaghan Road, Cookstown Decision: Decision Date: 19.11.2002	

Ref ID: I/2001/0031/O  
 Proposal: Site for dwelling  
 Address: 160m NW of 29 Corvanaghan Road Cookstown  
 Decision:  
 Decision Date: 21.06.2001

Ref ID: I/2003/0165/O  
 Proposal: Proposed replacement dwelling  
 Address: 80 Metres North West of 29 Corvanaghan Road, Cookstown  
 Decision:  
 Decision Date: 11.03.2004

Ref ID: I/1999/0426/O  
 Proposal: Site for Replacement Dwelling  
 Address: 80m North West of 29 Corvanaghan Road, Cookstown  
 Decision:  
 Decision Date: 12.05.2000

Ref ID: I/2002/0173/F  
 Proposal: Extension to Quarry Crushing & Mixing Plants  
 Address: 29 Corvanaghan Road, Cookstown  
 Decision:  
 Decision Date: 28.08.2002

Ref ID: I/1977/0476  
 Proposal: OFFICE, STORE, PLANT AND QUARRY EXTRACTION  
 Address: CORVANAGHAN, COOKSTOWN  
 Decision:  
 Decision Date:

Ref ID: I/2012/0308/DETEIA  
 Proposal: Proposed quarry extension  
 Address: Corvanaghan Quarry, Cookstown, Co. Tyrone,  
 Decision: RES  
 Decision Date:

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

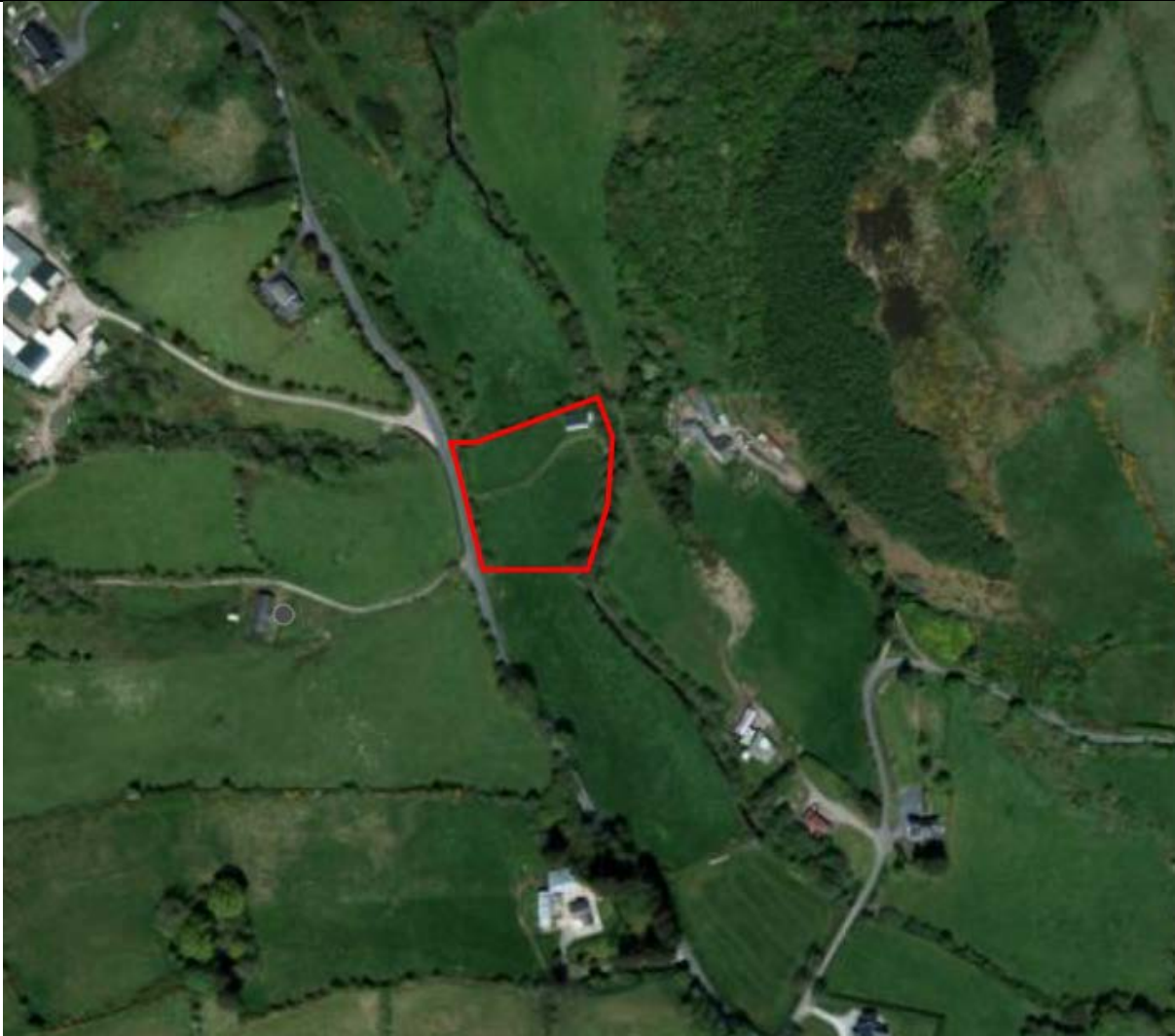
## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0451/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of use of existing horse stable building to dog re-homing centre, proposed retention of 2 no. modular buildings and proposed provision of 1 no. dwelling house, all to be used in association with dog re-homing centre	<b>Location:</b> Lands approximately 170m North East of 40 Ballynahaye Road, Ballynahaye, Ballygawley.
<b>Referral Route:</b>  There are 6 letters of objection to this proposal and this application is contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Tyrone Husky Rescue 119 Mullybrannon Road Dungannon	<b>Agent Name and Address:</b> CD Consulting 75 Creagh Road Tempo Enniskillen BT94 3FZ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	NI Water - Single Units West - Planning Consultations	Content
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Rivers Agency	Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested

#### Representations:

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

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

This application site is located off the Ballynahaye Road approximately 6 kilometres North East of Ballygawley and 9.5 kilometres West of Castlecaulfield. It is located in the rural countryside as is defined in the Dungannon and South Tyrone Area Plan (DSTAP) where single dwellings are dispersed throughout this landscape dominated by agricultural use.

The site occupies an almost square parcel of land which sits to the east of Ballynahaye Road in a valley, with the road sitting at a level much higher than the site. It measures approximately 0.6 hectares and slopes steeply down to where a watercourse flows adjacent to the eastern boundary of the site. A small wooded area known as Haymore Hill is located on the opposite side of the valley and watercourse.

The western roadside boundary comprises hedgerow with a 2 metre high mesh wire fence behind. The site is accessed off the Ballynahaye Road via a laneway which is fenced off by a d rail wooden fence with a 2 metre high wire fencing to the rear. This creates 2 separate grassed areas both sides of the laneway which rise steeply towards the road. During the site visit a large close board fence was being erected inside of and along the roadside boundary, continuing down along and forming the southern boundary of the site. On the site, the building referred to by the applicant as the “stable building” sits in the north eastern corner of the site, perpendicular to the road. This building appears to have recently had new roof cladding added forming a canopy that overhangs a concreted area. There are 4 doors on this façade and 2 metre high metal caging encloses this covered area.

Adjacent to and along the eastern boundary of the site are 2 separate buildings which have recently been constructed. These are wooden clad structures with steel clad roofing and a concreted area to the front which is caged off also. The smaller of the buildings is proposed as a storage hut. To the rear of these buildings a close board fence with wire mesh separates the site from the steep drop down to the watercourse. An area close to the storage shed is fenced off from the remainder of the site with post and wire mesh fencing. During the site inspection the applicant informed me this designated area is where the house is going, although this conflicts with the Site Layout drawings submitted.

### Planning History

An Enforcement Case was opened in July 2020 on the unauthorised change of use from an agricultural field to a dog rescue enclosure and the unauthorised erection of fencing – LA09/2020/0104/CA. This resulted in a Planning Contravention Notice being served by Mid Ulster Council. The applicant stated work started on the site which included installing 6 foot high security fencing in June 2020. This case was subsequently closed in Jan 2021 as the use of the site as a dog rehoming centre had not commenced and it was considered the operational work carried out was minimal (alterations to the existing building and fencing).

During the period between the closing of this Enforcement case and the site visit, a number of other developments appeared to have occurred and have since been constructed.

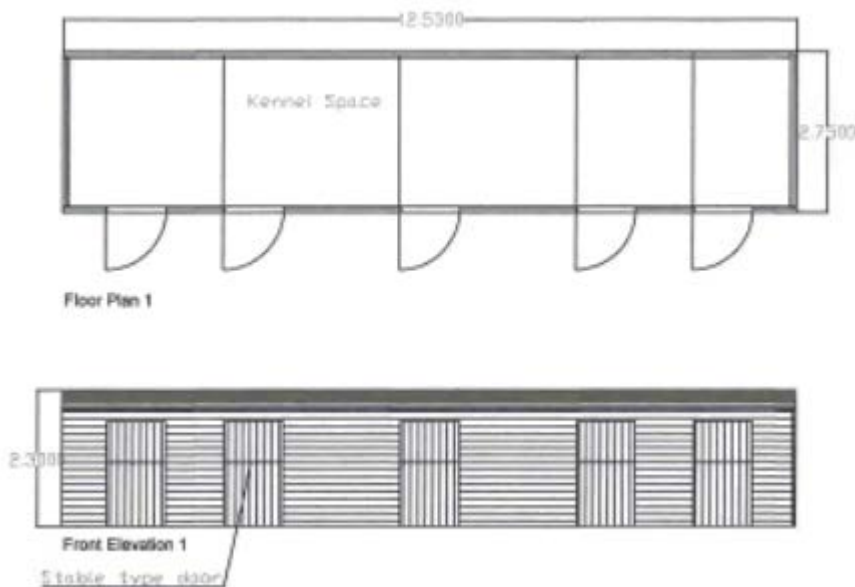
## Description of Proposal

This application seeks full planning permission for Proposed change of use of existing horse stable building to dog re-homing centre, proposed retention of 2 no. modular buildings and proposed provision of 1 no. dwelling house, all to be used in association with dog re-homing centre on land approximately 170m North East of 40 Ballynahaye Road, Ballynahaye, Ballygawley.

There are 2 separate components to this proposed development, however as all elements are contained within the single application, failure to satisfy one aspect of the proposal would result in the whole proposal being refused.

The first part is the Tyrone Husky Rescue business which on this site wants to

- Retention of 2 buildings as an extension of the Dog Rescue business.



The larger of the recently constructed buildings which has applied to be retained is 12.5 metres in length and 2.7 metres wide. There are 5 stable type doors on this front façade which faces the road, and are the only openings on the building. The walls and doors of both structures are clad in wood finish with dark grey metal roof sheeting.

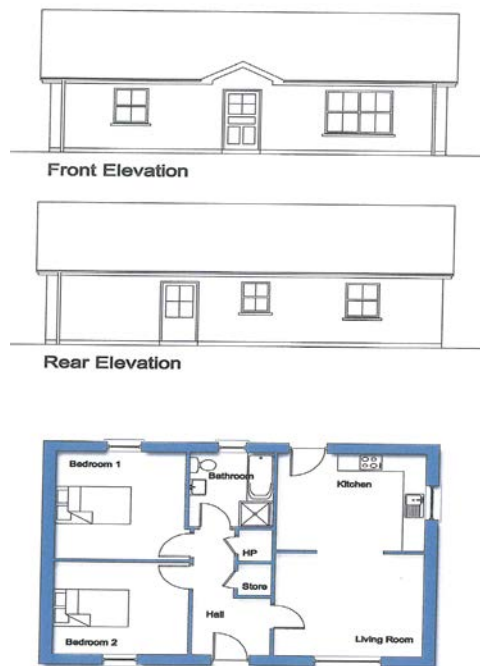


The smaller of the 2 buildings is to be utilised for storage and has a footprint of 12.6 metres squared (see above).

- Change the Use of the existing stable building to Dog rescue (see photo below)



The other part of this application refers to the construction of a dwelling on this site also. This proposed dwelling has a footprint of just under 90 metres squared and a ridge height of 5 metres FGL.



### Representations and Consultations

NI Water have stated there is no public sewer available to serve this proposal and have no objections.

The applicant in the P1 form has stated they propose to alter an existing access to the public road.

DfI Roads have no objection subject to the provision of visibility splays of 2.4 metres by 45 metres and a forward sight distance of 45 metres prior to the commencement of any development on the site.

Dfl Rivers were consulted due to the lower eastern part of the site lying within the 1 in 100 year flood map. Referring to the site plan where it shows the built development is taking place on elevated ground outside of the floodplain, they recommend all FFLs including gardens, driveways and paths are all placed at a minimum of 600 mm above the 100 year fluvial flood level. Dfl Rivers also require a 5 metres maintenance strip for the watercourse which flows along the eastern boundary of the site, unless it can be maintained from the bank opposite by agreement with the landowner.



The Environmental Health section of the Council were consulted due to the proposed use for this site. They requested a Noise Impact Assessment (NIA) in order to fully assess the implications of the proposed development on the residents in the immediate vicinity. This was submitted and the Environmental Health department were again consulted, highlighting a number of issues to be remedied prior to making a conclusive response on the suitability of this proposal:

- The amenity spaces of nearby residential properties were not included as part of this study, which would thus reduce the separation distances provided.
- The actual location of the noise monitoring equipment has not been detailed in the NIA and the coordinates are required.
- Details on the sound reduction index of the foam insulation was not provided for assessment.

There have been a total of 6 letters of objection to this proposal, including neighbouring dwellings and a local Councillor.

The concerns highlighted by the objectors include;

- Noise pollution due to constant barking in this quiet rural location
- Buzzards and Red Kites are said to be present in the area
- Horse breeder concerned the constant barking will stress his horses.
- Husky dogs are predatory and escape artists, causing safety concerns for livestock and local children
- Increased traffic from potential customers and volunteers
- Persistent barking will impact on sleep and health, while also impacting those who now have to work from home.

A number of concerns regarding the Noise Impact Assessment (NIA) were also highlighted:

- The report identifies a totally different location from this application site.
- No reference is given to the number of dogs at the site.
- The separation distances from NSR noted are questioned.
- No consideration on daytime impacts of the proposal.



The applicant did submit a letter from a Dog Warden at Armagh, Banbridge and Craigavon Borough Council stating they have worked with the applicant and support the need for the business.

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

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

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

The Strategic Planning Policy Statement for Northern Ireland `Planning for Sustainable Development (SPPS) is material to all decisions on individual planning applications and appeals. The SPPS outlines the aim to providing sustainable development and with respect to that should have regard to the Development Plan and any other material considerations. It retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The SPPS advises that the policy provisions of PPS 21: Sustainable Development in the Countryside are retained. Section 6.73 of the SPPS relates to development which is considered acceptable in the countryside and Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.

Policies relating to Economic Development are contained in PPS 4. It is here where PED 2 Economic Development in the Countryside sets out which economic development uses which are permitted in the countryside and all other proposals will only be permitted in exceptional circumstances.

This application proposes to establish a use on the site, reuse an existing (stable) building and to retain the 2 recently constructed additional buildings.

The building which is referred to by the applicant as a "stable" is evident on the aerial photographs taken on 7<sup>th</sup> June 2013 as is evident below.

Although the actual building may be immune from enforcement action, there is no established use on this site on which the applicant can claim to change from and no evidence to support the use of this building in the past as stables has been provided.

The most recent ortho photographs taken in May 2019 show the access down to the site is overgrown and thus appeared to not be in use.



The agent has stated this proposal is an exceptional circumstance based on information in the applicant's submitted letter.

The applicant did provide some information on the business Tyrone Husky Rescue which was started in January 2017 at the address where she currently resides, No 199 Mullybrannon Road which is approximately 16 kilometres from this application site, as the crow flies. Capacity is limited to 18 dogs who each spend an average of 6-8 weeks there. Over 180 dogs have been rehomed throughout Ireland and 40 to England from this business. The applicant is currently seeking charity status for the business from the NI Charities Commission.

The agent claims the applicant has to relocate to an alternative rural location for the business as the dwelling she is noted as residing at is only leased and that contract has ended, stating the applicant has spent a significant amount of money on this application site to provide an adequate space for the business. However this was undertaken at the applicant's own risk as there is no planning permission or use established on this rural site.

I would disagree with the agent's claim that the exceptional policy test is met. I am not wholly convinced this "business" would be considered such an important service provider to be considered as meeting the exceptions case. The business of Tyrone Husky Rescue may have been established since 2017, however it is not lawful at the said address and no use has or is established on this application site.

PED 3 is not applicable in this instance as this application is not for the Expansion of an Established Economic Development Use in the Countryside. Although the applicant does claim to have the Tyrone Husky Rescue business already established, it is not so on this parcel of land subject of this planning application.

PED 9 sets out a list of criteria all planning applications for economic development must meet. In my opinion this proposal fails to comply with PED 9 in that it has not been adequately demonstrated that it does not harm the amenities of nearby residents and could create a noise nuisance.

Therefore I do not feel this application complies with the policy provisions of PPS 4, in particular PED 2 and PED 9 as is assessed above.

This application site is located in the rural countryside and thereby the provisions of Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21) must be met. Policy CTY 1 of PPS 21 lists a range of types of development which in principle are considered acceptable in the countryside and the circumstances wherein planning permission will be granted for an individual dwelling house are identified.

Policy CTY 7 in PPS 21 sets out where planning permission will be granted for a Dwelling associated with Non-Agricultural Business Enterprises. It states that where there is an established non-agricultural business enterprise, a dwelling will be permitted where there is a site specific need is clearly demonstrated that makes it essential for one of the firm’s employees to live at the site of their work. In justification for the policy, it does state that the presence of such a business is not, of itself, sufficient justification for someone to live on the site.

The applicant Tyrone Husky Rescue is run by Hayley Doak who currently lives at 119 Mullybrannon Road, Dungannon as is the address provided on the P1 form. It is a non-profit rescue where abandoned huskies are taken in and rehomed. The business is currently run from the applicant’s address where she has stated she has 16-18 dogs at any one time. This property at Mullybrannon Road is rented by the applicant and the use of “a rescue centre” at this address does not benefit from planning permission.

The applicant has stated work was started on the application site in June 2020 and she signed a 14 year lease to rent the site. During the site inspection the applicant confirmed the dwelling is for herself and this was further supported by the GoFundMe campaign where donors could contribute to her goal to purchase a mobile home.

The applicant claims there is a site specific need  
 “in the event a dog was to break away from the facility, it would be incredibly difficult to find and it could pose a risk to local farms animals, thus it needs monitored 24 hours a day, 7 days a week”.

This planning application fails to meet this policy criteria as there is no established business on this application site, therefore there is no case for the need for a dwelling here on this site.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
---------------------------------------	------------

**Summary of Recommendation:**

Taking all the above into consideration, it is my opinion this application should be refused as it is contrary to PPS 21, in particular policies CTY1, 7, 13 and 14. There is no established business on the site and therefore there is no exceptional need for a dwelling on this site. I also have concerns that the ancillary features such as the close board fencing surrounding this application site does not integrate into the landscape, thus contrary to CTY 13 and 14.

This proposal is also contrary to PED 2 and PED 9 in PPS 4 as there is no existing business established on this site and it has not been satisfactorily demonstrated that the proposed business would not have a detrimental impact on neighbouring amenity.



It could be argued that the countryside is more suited for such a business such as a Dog Rescue, as opposed to an urban setting. However I am not convinced of the argument to relocate a business which was established at the applicant's residence to this new application site, with the additional requirement of a dwelling also being introduced onto this particular site.

Committee Members must assess this proposal on both the justification for a Husky rehoming centre and thus subsequently the need for a dwelling here on this site. I am not convinced this business provides such a service that it should be considered by the Council as an exceptional case whereby the applicant has a site specific need for her business to be relocated to this application site and thus justifying a dwelling in this rural location. Therefore refusal is recommended.

**Reasons for Refusal:**

1. This proposal is contrary to policy PED 2 in PPS 4 in that it is not considered an exceptional circumstance for economic development in the countryside.
2. This proposal is contrary to policy PED 9 in PPS 4 as it has not been demonstrated that it would not have a detrimental impact on neighbouring amenity in terms of noise nuisance.
3. This proposal is contrary to policy CTY 7 in PPS 21 as there is no established non-agricultural business enterprise on the application site for a site specific need to be demonstrated.
4. This proposal is contrary to part d in Policy CTY 13 in PPS 21 as ancillary works would not integrate into the surroundings.
5. This proposal is contrary to part e in Policy CTY 14 in PPS 21 as the impact of ancillary works would damage the rural character.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	23rd March 2021
<b>Date First Advertised</b>	6th April 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)	
<p>The Owner/Occupier,  10 Upper Cranlome Road Galbally Ballygawley  P Donnelly  10, Upper Cranlome Road, Ballygawley, Galbally, Tyrone, Northern Ireland, BT70 2HY</p> <p>The Owner/Occupier,  40 Ballynahaye Road Ballynahaye Ballygawley  T Owens  46 Ballynahaye Road Ballygawley Tyrone  C Donnelly  58 Ballynahaye Road Ballygawley Tyrone  Claire Donnelly  58a Ballynahaye Road Ballygawley  AH &amp; FE McFarland  Email</p>	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<p>Ref ID: LA09/2021/0451/F  Proposal: Proposed change of use of existing horse stable building to dog re-homing centre, proposed retention of 2 no. modular buildings and proposed provision of 1 no. dwelling house, all to be used in association with dog re-homing centre  Address: Lands approx. 170m North East of 40 Ballynahaye Road, Ballynahaye, Ballygawley,  Decision:  Decision Date:</p> <p>Ref ID: M/2003/1462/O  Proposal: Dwelling House  Address: 100m West of 10 Upper Cranlome Road (On Ballynahaye Rd) Ballygawley  Decision:  Decision Date: 05.03.2004</p> <p>Ref ID: M/2007/0065/RM  Proposal: Proposed dwelling and garage</p>	

Address: 100m West of 10 Upper Cranlome Road, Ballygawley  
Decision:  
Decision Date: 21.05.2007

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

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

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

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

Drawing No. 04  
Type: Site Layout or Block Plan  
Status: Submitted

Drawing No. 05  
Type: Proposed Floor Plans  
Status: Submitted

Drawing No. 06  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 07  
Type: Details of Access to the Public Road  
Status: Submitted

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

Date of Notification to Department:  
Response of Department:



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 05/04/2022	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0665/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling & domestic garage in compliance with PPS (CTY10)	<b>Location:</b> 80m East of 4 Valemount Derryvale Road Coalisland
<b>Referral Route:</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Jeremy Morgan 41 Derryvale Road Brackaville Coalisland	<b>Agent Name and Address:</b> McKeown & Shields Assoc Ltd 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b> The applicant lives at 41 Derryvale Road which is a two storey dwelling across the road and to the north west of the site. The application site is a field behind a row of dwellings 1 – 4 Valemount Coalisland. The applicant has originally asked for the proposal to be considered under CTY 2a but as the site is outside the settlement limit and the adjacent buildings are within the limit they cannot be used in the consideration of CTY 2a. The farm dwelling is at No. 41 which is not in close proximity to the site across the road. There is a building within the site which was previously granted approval M/2013/0477/F for an isolation shed for animals. The building has been on site since at least 2013 as shown on Spatial NI orthophotography but at the time of my site visit is not currently being used as the approved use.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	DETI - Geological Survey (NI)	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA Omagh	Content

#### Representations:

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

#### Characteristics of the Site and Area

The site is in a semi-rural area but is on the edge of the settlement limit of Coalisland as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area to the south and west is outside the limits and is semi-rural in character with a mix of agricultural fields, farm complexes and single rural dwellings. To the north is within the limits of Coalisland and is more urban in character with mainly row of detached and semi-detached dwellings.

The application site is a field which is set back from the road by a laneway. At the end of the laneway and adjacent to the field is a small building which is currently being used as a

dwelling. Along the southern boundary is a low wooden fence and along the remaining boundaries are rows of established trees.

### **Description of Proposal**

This is an outline application for a proposed dwelling & domestic garage in compliance with PPS (CTY 10) at lands 80m East of 4 Valemount Derryvale Road, Coalisland.

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

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

### **Representations**

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

### **Planning History**

M/2010/0883/F - Proposed retrospective approval for the retention of a replacement fire damaged forge and shed - To the rear of No 2 Valemount, Derryvale, Coalisland, Co. Tyrone – Appeal Dismissed

M/2013/0477/F - Proposed retrospective approval for the retention of an isolation shed for the welfare of animals on the applicant's farm lands - To the rear of No 2 Valemount, Derryvale, Coalisland, Co Tyrone – Permission Granted 14<sup>th</sup> May 2014

### **Consultees**

DETI geological survey were consulted and confirmed the proposed site is greater than 100m from the nearest know abandoned mine working. In addition, there is no known underground mine working at the site. GSNI also confirmed there are no mineral reserves left in this designation and had no concerns about a dwelling in this location.

DFI roads were consulted as the proposal is an intensification of an existing access and confirmed visibility splays of 2.4m x 45m. However DFI Roads confirmed third party land is required which involves an NI water site with an electric box and aerial to the south west and a private garden to the north east. The applicant has stated on the P1 form that they control no other adjoining land which would include the visibility splays but they have served a P2 notice on the adjoining landowners for the visibility splays.

DAERA were consulted as the proposal is for a dwelling on a farm and they confirmed the farm holding has been in existence for more than 6 years. Also, that the applicant is a category 3 farmer and the site is not on land claimed by any business in 2021.

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

The Mid Ulster District Council Local Development Plan 2030 Draft Plan Strategy was launched on 22nd February 2019 and is now a material planning consideration in assessing

all planning applications in the District. Re-consultation on the Draft Plan Strategy closed at 5pm on 24th September 2020. The period for Counter Representations closed on 18th December 2020. On the 28<sup>th</sup> May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause an Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

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

The site is outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The site is within the Derry Mineral Reserve Policy Area as designated in MN2 in the plan. It is stated in the policy that surface development in these areas would prejudice the future extraction of these reserves which are important in the manufacture of cement and clay bricks. In rebuttal the agent submitted a supporting statement by email on the 2<sup>nd</sup> February 2022. It is stated that other developments in the surrounding area and within the MN2 designation have been approved such as a new children's crèche on the Brackaville Road and a motor race track and ancillary buildings in Coalisland. It is also stated the site is in close proximity to existing housing so not mining activity would ever be permitted in the established residential area of Derryvale. I consider due to the location of the site on the edge of the designation MN2 the proposal would not prejudice the future development of the reserves in the area. I consulted GSNI who confirmed this is a legacy reserve area that relates to the historic clay brick extraction in the area. It is GSNI's understanding that there are no reserves in this designation and the area has been worked. Therefore, GSNI have no concerns that a dwelling in this location will have an impact on future extraction.

### **Planning Strategy for Rural Northern Ireland Policy MIN 5 Mineral Reserves**

This policy states that mineral reserves such as lignite (brown coal) are of particular value to the economy and surface development which will prejudice there development will not be permitted. I consider as stated above in the discussion of MN2 the proposal will not prejudice the overall extraction of these reserves due to its location.

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

### **Planning Policy Statement 21**

Policy CTY 1 of PPS 21 sets out the range of types of development which, in principle, are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. I consider the applicant has provided no reasons why this development is essential in the countryside and could not be located in a settlement.

There is no dwelling on the application site that could be replaced so the proposal does not meet CTY 3.

The proposal would not meet the criteria for an infill dwelling as there is not three or more buildings along a road/lane with a frontage.

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

As stated in the Preamble in PPS 21 the countryside is defined as land lying outside of settlements as defined in development plans. The application site is location on the south east boundary of the settlement limit of Coalisland and as such, any development to the north of the site inside Coalisland cannot be considered in the assessment of CTY 2a. However there is a shed abutting the northern boundary of the red line of the site which is outside the settlement limit of Coalisland. To the west and along the access there is a dwelling and a garage which abut the red line of the site. There is no other development to the south and east which abut the site. Therefore I consider there is development on two sides of the application site.

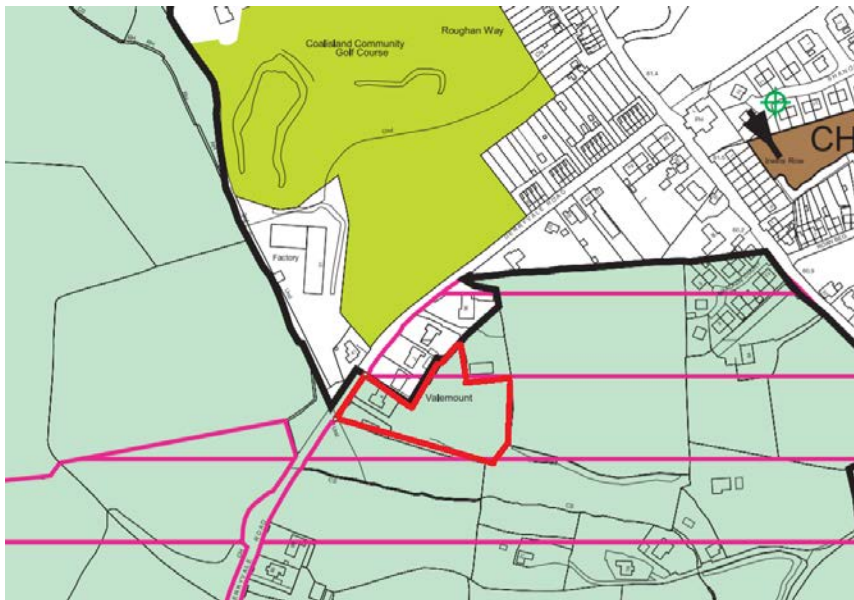


Figure 1 – Snapshot from the Dungannon and South Tyrone Area Plan 2010 showing the settlement limit of Coalisland.

I do not consider the cluster of development lies outside of a farm.

The site does not appear as a visual entity in the landscape as development to the north within the limits cannot be considered.

The site is not associated with a focal point or at a crossroads.

As stated earlier there isn't an existing cluster of development in the countryside at this site. I consider the site would visually intrude into the countryside as it would lead to urban sprawl as the site is on the boundary of the settlement limit of Coalisland.

As the proposed siting of the dwelling is in the south east corner of the site and away from other dwellings I am content the proposal will not have an unacceptable impact on neighbour amenity.



Overall I consider the proposal does not meet the criteria in CTY2a

Initially, the applicant submitted the proposal for a dwelling to be considered under CTY 2a and as demonstrated above it does not meet CTY 2a. Subsequently the applicant changed the proposal to a dwelling on a farm and the remainder of the assessment considers the case under CTY 10.

### **Policy CTY 10 – Dwellings on Farms**

DEARA were consulted with this application and confirmed the farm business has been in existence for over 6 years since the 17<sup>th</sup> September 2013 but the applicant is a category 3 farmer so no farm subsidies can be claimed. DAERA confirmed the proposed site is on lands not claimed by any other business in 2021. I am content there has been farm activity at this site for over 6 years and the applicant has submitted the following evidence to demonstrate the farm business is currently active. In a supporting email dated 12<sup>th</sup> February 2022 the agent stated the applicant Mr Jeremy Morgan rents the land from Mr John McGuinness. The applicant has signed certificate C on the P1 form and states John McGuinness is the landowner and both live at the same address at 41 Derryvale Road. A con-acre license agreement has been submitted dated 1<sup>st</sup> March 2018 which states John McGuinness is renting the land to a different person Mr Neville Ewing for 5 years. In the supporting statement it also states Mr McGuinness keeps the hedging cut, maintains the fencing and cuts silage and hay from the field. In an email dated 15<sup>th</sup> September 2021 the agent confirms that the applicant's father in law is Mr John McGuinness who owns and farms the site.

In summary I am of the opinion that Mr McGuinness is drawing an income from the farm business as he has rented the land out to a third party since 2018. No other receipts have been submitted to provide evidence that the landowner is maintaining the land in good agricultural condition. However when I completed my site visit on the 28<sup>th</sup> May 2021 there were horses in the field and the grass did appear to be left to grow for hay as the applicant states. The field was not overgrown and the fences appeared to be maintained. I would state in the balance of probability the applicant is maintaining the land.

The applicant submitted a 2021 farm boundary map and I completed a history check and no sites or development opportunities have been sold off from the farm holding within the past 10 years.

There is a building within the red line of the application site which was granted approval M/2013/0477/F for an isolation shed for the welfare of animals on the applicant's farm lands. Previous to this approval the applicant submitted a retrospective application for the retention of a shed which is the same building M/2010/0883/F and a planning appeal was dismissed. When I completed my site visit on the 28<sup>th</sup> May 2021 I knocked the door of this building and someone came out so the building is potentially being used as an unauthorised dwelling. The applicant and the landowner lives at No. 41 Derryvale Road which is across the road and a roadside frontage onto Derryvale Road. Their dwelling does not abut the application site. I checked Spatial NI orthophotography and the building has been on site for over five years and as shown below in figure 2 the building has been there since 2013. As there is only one substantial building at the site I believe there is not an established group of buildings on the farm to cluster or visually link with.



Figure 2 – orthophotography from 2013



Figure 3 – snapshot of the building at the site

No health and safety case has been submitted as to why the dwelling needs site away from the farm dwelling and there are no verifiable plans to extend the farm through approvals.

Overall I consider the proposal does not meet criteria c in CTY 10 and cannot be considered as meeting the case for a dwelling on a farm.

### **CTY 13 – Integration and Design of Buildings in the Countryside**

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. The site is an agricultural field which is set back from Derryvale Road and there are no critical views of the site from the road in both directions as shown in figure 4. The applicant has proposed to site the dwelling in the south east corner of the site so I am content the proposal will not be a prominent feature in the landscape.



Figure 4 – long distance view from the south of the site

There are established trees along the south and east boundaries of the site and as the dwelling is proposed to be sitting in the south east corner I am content there is an acceptable degree of enclosure.

The proposal will use an existing access so I have no concerns about the impact of the access on rural character.

As this is an outline details about the design will be provided at the reserved matters stage. I do not consider it is appropriate to have a ridge height restriction on the dwelling as it is set back from the road and there are limited public views.

I am content a dwelling could blend into the landscape in this location as it would have the backdrop of existing sheds and dwellings in the vicinity and has good natural boundaries.

The proposal is for a dwelling on a farm and is not visually linked or clustering with any established group of buildings on the farm holding so fails this test in CTY 13.

#### **Policy CTY 14 – Rural Character**

As stated earlier I am content the proposal will not be a prominent feature in the landscape. As the site is on the boundary of the settlement limit of Coalisland the proposal if approved would lead to urban sprawl which is detrimental to rural character. This is creating a suburbanised build-up of development into the countryside which is not acceptable.

#### **Policy CTY 15 – The Setting of Settlements**

The application site is on the south east boundary of the limits of Coalisland. I consider the proposal will result in urban sprawl which is contrary to policy and lead to the further development of the settlement limit of Coalisland.

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

DFI roads were consulted as a new vehicular access is being created and responded with concerns subject to visibility splays of 2.4m x 45m in both directions. Roads stated the applicant would require third party lands but they have served a P2 form on the neighbouring lands.

**Other Considerations**

I have checked the statutory map viewers and I am content there are no ecological, built heritage, flooding or residential amenity concerns.

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

**Summary of Recommendation:**

The proposal is recommended for refusal, as it does not meet the policy in CTY2a, CTY 10, CTY 13 and CTY14 in Planning Policy Statement 21 – Sustainable Development in the Countryside.

**Reasons for Refusal:**

1. The proposal is contrary to CTY 1 in Planning Policy Statement 21 in that there is no overriding reasons why the development is essential and could not be located within a settlement.
2. Contrary to Policy CTY 2a of Planning Policy Statement 21 - Sustainable Development in the Countryside in that the proposal is not associated with a focal point or located at a cross roads.
3. Contrary to criteria c in Policy CTY 10 of Planning Policy Statement 21 - Sustainable Development in the Countryside in that the proposed dwelling does not cluster or visually link with an established group of buildings on the farm.
4. Contrary to criteria g in Policy CTY 13 of Planning Policy Statement 21 - Sustainable Development in the Countryside in that the proposed dwelling does not cluster or visually link with an established group of buildings on the farm.
5. The proposal is contrary to CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted be detrimental to rural character and would result in urban sprawl.
6. The proposal is contrary to CTY 15 – The Setting of Settlements of Planning Policy Statement 21 in that the development would mar the distinction between the countryside and the defined settlement limit of Dungannon.

**Signature(s)**

**Date:**



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

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

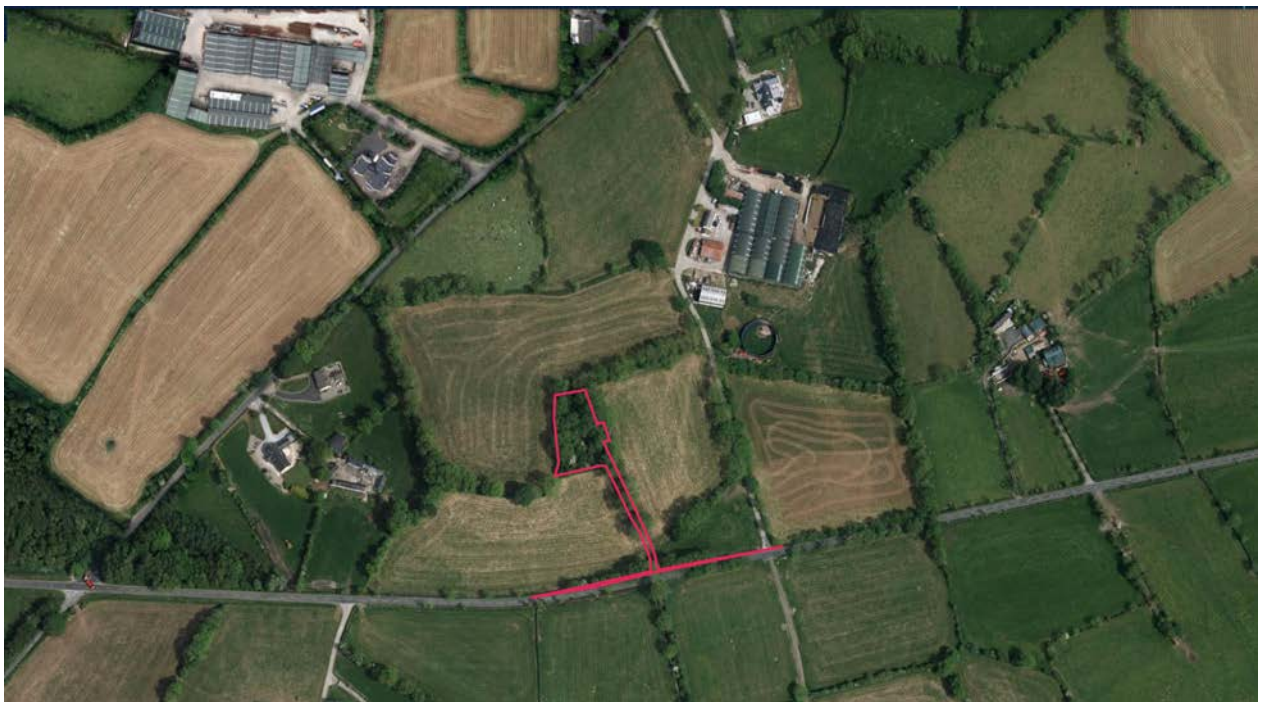
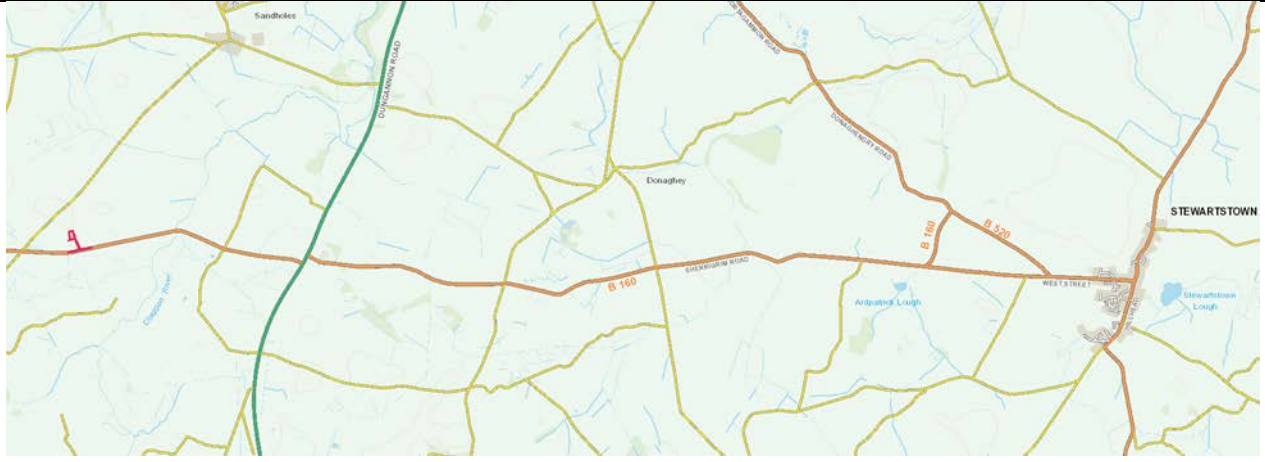
### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0684/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and double domestic garage on a farm	<b>Location:</b> 108m South West of 19 Annaghquin Road Cookstown
<b>Referral Route: Exception to Policy CTY 10</b>	
<b>Recommendation: Approve</b>	
<b>Applicant Name and Address:</b> Raymond and Linda Potter 8 Oaklands Road Cookstown	<b>Agent Name and Address:</b> R G Leonard 33 Sessiagh Road Tullyhogue Cookstown BT80 8SN
<b>Executive Summary:</b> Whilst criterion (2) of CTY 10 not met under this application as a development opportunity out-with settlement limits has been sold off the farm holding within the last 10 years from the date of the application, Policy CTY10 does make provision for planning permission for a dwelling on a farm once every 10 years. As such, it was considered reasonable given the limited time required to hold this application until 10 years from the development opportunity being sold off the farm holding (21 <sup>st</sup> March 2022), then present it to Committee for consideration as an exception to policy, as the applicant could re-submit the proposal now and it would be approved.	
<b>Signature(s):</b>	



# Case Officer Report

## Site Location Plan



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	DAERA - Omagh	Substantive Response Received
<b>Representations:</b>		
Letters of Support		None Received
Letters of Objection		None Received
Number of Support Petitions and signatures		No Petitions Received
Number of Petitions of Objection and signatures		No Petitions Received
<b>Characteristics of the Site and Area</b>		
<p>The site is located in the rural countryside, as depicted within the Cookstown Area Plan 2010, approx. 1.8km southwest of the Sandholes; and approx. 1.8km west of the A29 road, a protected route between Cookstown and Dungannon.</p> <p>The site comprises a relatively rectangular shaped plot set back from, elevated above, and accessed off the Annaghquinn Rd via an existing agricultural access and gravelled lane. Mature trees and vegetation are located within and bounding the site on all sides including access lane.</p> <p>Critical views of the site will be from the Annaghquinn Rd located to the south. They will be over a distance of approx. 100 metres on both the west and east approach to its access and will in part be through roadside vegetation or vegetation within the wider vicinity. Whilst on both approaches the site will be visible owing to its elevated nature above the Annaghquinn Rd, a dwelling situated within it, subject to the substantial retention of boundary planting, would largely be screened.</p> <p>The area surrounding the site is rural in character comprising largely undulating agricultural lands interspersed by detached dwellings, ancillary buildings and farm groups including the applicant's farm group (comprising the farmhouse, no. 19 Annaghquinn Rd and a no. of outbuildings / shed bounding it) located approx. 140 metres to the northeast.</p>		
<b>Description of Proposal</b>		
<p>This is an outline application for a proposed dwelling and double domestic garage on a farm to be located on lands 108m South West of 19 Annaghquin Road Cookstown.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p> <p><b>The following documents provide the primary policy context for the determination of this application:</b></p> <p>Regional Development Strategy 2030  Strategic Planning Policy Statement for Northern Ireland  Cookstown Area Plan 2010  Planning Policy Statement 3: Access, Movement and Parking  Development Control Advice Note 15: Vehicular Standards</p>		

## Planning Policy Statement 21: Sustainable Development in the Countryside Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Relevant Planning History**

#### On Site

I/2007/0825/O - Proposed dwelling house - 385m ENE of junction of Annaghquin Road and Killyneedan Rd Cookstown - Withdrawn 27<sup>th</sup> May 2009

#### Adjacent Site

I/2009/0141/F - Proposed two storey dwelling - Site approx. 115m NNE of 19 Annaghquin Rd Cookstown - Granted 9<sup>th</sup> March 2011

### **Consultees**

1. DFI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside the application. DAERA confirmed the farm business identified on P1C Forms and Farm maps has been active and established for over 6 years.

### **Consideration**

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

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statements relevant to this proposal are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 'Development in the Countryside' and include dwellings on farms in accordance with Policy CTY 10 of PPS 21 'Dwellings on Farms'.



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

1. the farm business is currently active and has been established for at least 6 years,

The applicant has a farm business and as confirmed with the Department of Agriculture, Environment and Rural Affairs (DEARA) this farm business (identified on P1C Forms and Farm maps submitted along with the application) has been active and established for over 6 years. I am content Criterion (1) of CTY 10 has been met.

2. 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 or since PPS 21 was introduced on 25th November 2008.

A history and land registry check of the applicant's farmlands indicated that a dwelling / development opportunity out-with settlement limits had been sold off the farm holding within the last 10 years from the date of the application 5<sup>th</sup> May 2021. For the purposes of this policy, 'sold-off' means any development opportunity disposed of from the farm holding to any other person including a member of the family. The site approved under planning application I/2009/0141/F (see 'Relevant Planning History' further above) now occupied by a dwelling was transferred off the applicant's farm holding to his brother on the 20<sup>th</sup> March 2012. Whilst criterion (2) of CTY 10 has not been met under this application, Policy CTY10 does make provision for planning permission for a dwelling on a farm once every 10 years. As such, it was considered reasonable given the limited time required to hold this application until the 21st March 2022, 10 years from the dwelling / development opportunity being sold off the farm holding, then present it to Committee for consideration as an exception to policy, as the applicant could re-submit the proposal now and it would be approved.

3. the new building is visually linked or sited to cluster with an established group of buildings on the farm. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group(s).

The applicant's farm group, comprising the farmhouse, no. 19 Annaghquinn Rd and a no. of outbuildings / sheds bounding it, is located approx. 140 metres to the northeast of the site. Given the intervening lands and vegetation both on site and within the wider vicinity Planning considered a dwelling on this site would not visually link or cluster with the farm group.

Having advised the agent of the above opinion he / applicants submitted additional information outlining on grounds of health and safety why they could not site the new dwelling adjacent the farm group. Highlighting that the 'Justification and Amplification' of Policy CTY10 states that where:

- the existing building group is well landscaped, or where a site adjacent to the building group is well landscaped planning permission can be granted for a new

dwelling even though the degree of visual linkage between the two is either very limited, or virtually non-existent due to the amount of screening vegetation. Additionally, an indicative layout, Drawing no. 01(Rev.01) received 30<sup>th</sup> September 2021, was submitted to show the substantial retention of planting on site including along boundaries with the dwelling located within.

Further to the additionally information above, I am content this proposal complies with Criterion (3) of CTY 10. I believe the health and safety grounds cited to move away from farm group are reasonable. The 'Justification and Amplification' highlighted shows that Policy CTY10 does make provision, as is the case in this instance, for a dwelling on a well landscaped site though its visual linkage with the farm group is virtually non-existent due to the amount of screening vegetation. I believe the substantial retention of vegetation on site as per Drawing no. 01(Rev.01) received 30<sup>th</sup> September 2021 is essential to integrate the dwelling onto this elevated site, which without has the potential to be prominent, and into the surrounding landscape. Whilst the provision of sightlines will require mature roadside tree and hedge removal, I am content a condition can be attached to any subsequent permission to reinstate a native species hedgerow to the rear of the sightlines to further aid integration of the overall proposal.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character.

I am reasonably content a 2-storey dwelling and garage could integrate onto this well vegetated site and into the surrounding landscape without detriment to the rural character of the area subject to it being of an appropriate size, scale and design including finishes, which can be considered further under any subsequent reserved matters application. This is subject to the substantial retention of vegetation on site including along boundaries with the dwelling located within as per Drawing no. 01(Rev.01) received 30<sup>th</sup> September 2021.

I am content the amenity of neighbouring properties will not be adversely impacted by this proposal to any unreasonable degree in terms of overlooking or overshadowing as there are none in close proximity.

#### **Additional considerations**

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

Ni Flood Maps indicate no flooding on site.

#### **Recommendation**

Approve – As detailed further above in the main body of the report whilst criterion (2) of CTY 10 has not been met under this application the applicant could re-submit the proposal now and it would be approved.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation</b>	Approve
<b>Conditions</b>	
<p>1. Application for approval of the reserved matters shall be made to the Council within 3 years of the date on which this permission is granted and the development, hereby permitted, shall be begun by whichever is the later of the following dates:-</p> <ol style="list-style-type: none"> <li>I. the expiration of 5 years from the date of this permission; or</li> <li>II. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</li> </ol> <p>Reason: As required by Section 62 of the Planning Act (Northern Ireland) 2011.</p>	
<p>2. Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called "the reserved matters"), shall be obtained from the Council, in writing, before any development is commenced.</p> <p>Reason: This is outline permission only and these matters have been reserved for the subsequent approval of the Council.</p>	
<p>3. The depth of underbuilding between finished floor level and existing ground level shall not exceed 0.45 metres at any point.</p> <p>Reason: In the interest of visual amenity.</p>	
<p>4. No development shall take place until a plan indicating floor levels of the proposed dwelling in relation to existing and proposed ground levels has been submitted to and approved by the Council.</p> <p>Reason: In the interests of visual amenity.</p>	
<p>5. The proposed dwelling shall sited in general conformity with Drawing no. 01(Rev.01) bearing the date stamp received 30 SEP 2021.</p> <p>Reason: To protect the amenity value of the trees on site and to ensure the development integrates into the countryside.</p>	
<p>6. The existing trees on site and along the boundaries of this site as indicated on Drawing no. 01(Rev.01) bearing the date stamp received 30 SEP 2021, shall be retained intact and no lopping, topping, felling or removal shall be carried out without prior consent in writing to the Council.</p>	

Reason: To protect the amenity value of the trees on site and to ensure the development integrates into the countryside.

7. Prior to the commencement of development hereby approved, a detailed tree survey shall be provided to show the condition, species, height and location of each tree to be retained. All trees to be retained shall have a construction exclusion zone provided during construction to the crown spread of each tree and no construction shall take place within the crown spread, details of which shall be agreed prior to the commencement of development hereby approved. All indicated retained trees shall be permanently retained thereafter.

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

8. During the first available planting season following the occupation of the dwelling hereby approved, a landscaping scheme, as agreed with the Council at Reserved Matters stage shall be implemented as agreed. The scheme shall include details of those trees to be retained and measures for their protection during the course of development and a native species hedge to be planted to the rear of the visibility splays. The scheme shall detail species types, siting and planting distances and a programme of planting for all additional landscaping on the site and will comply with the appropriate British Standard or other recognised Codes of Practice. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

Reason: To ensure the provision of a high standard of landscape.

9. A scale plan at 1:500 shall be submitted as part of the reserved matters application showing the access to be constructed in accordance with the attached form RS1 and shall include sight splays of 2.4m x 105m in both directions onto the public road and a 105m forward sight distance. The access as approved at Reserved Matters stage shall be constructed in accordance with the approved plans, prior to the commencement of any other development hereby approved.

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

#### Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.

3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. 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.

**Signature(s)**

**Date:**

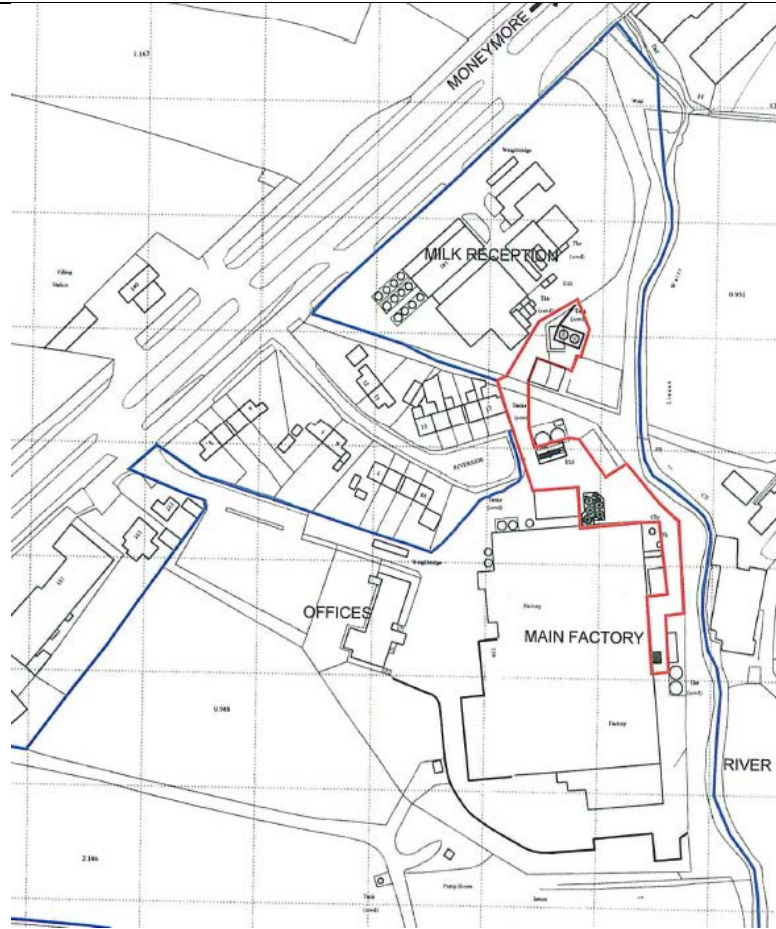


## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0685/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed whey protein concentrate (WPC) processing, storage and dispatch project at existing cheese processing factory including 2 chiller units, 5No. 100000L silos 2No. 150000L silos within a 3m high bund area and associated equipment and site works including acoustic fencing	<b>Location:</b> Lands at 141 Moneymore Road Dunman Bridge Cookstown
<b>Referral Route:</b> 1no. Objection received	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Dale Farm Ltd 141 Moneymore Road Dunman Bridge Cookstown	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen	Content
Non Statutory	Environmental Health	Substantive Response
Statutory	NIEA	Advice
Statutory	Historic Environment Division	Content
Non Statutory	Environmental Health	Substantive Response
Statutory	Rivers Agency	Advice
Statutory	NI Water – Strategic Applications	Substantive Response

#### Representations:

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

#### Characteristics of the Site and Area

This application site is located at 139 Moneymore Road, Dunman, Cookstown and is within the settlement limits of Dunman as designated in the Cookstown Area Plan 2010. The site comprises a portion of the Dale Farm complex which is a large milk and cheese processing factory. The access road comes directly off the Cookstown to Moneymore

Dual Carriageway which is a Protected Route. The area is characterised predominantly by industry but there is also a residential land use in close proximity to the west. The Lissan Water flows to the East of the site and the banks of this River is designated as an LLPA in the Cookstown Area Plan. Within the Dunman settlement there are varying land uses including residential and commercial enterprises.

### **Description of Proposal**

This planning application seeks full planning permission for 2 chiller units, 5No. 100000L silos 2No. 150000L silos within a 3m high bund area and associated equipment and site works including acoustic fencing within the existing Dale Farm Complex located on Lands at 141 Moneymore Road, Dunman Bridge, Cookstown.

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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development
- Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage
- Planning Policy Statement 15 – Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 1 objection letter was received from the owner/occupier of No.14 Lis money Road. The concerns outlined in this letter are summarised and considered below:

- *Claims development will go ahead as in the 20 years living at his property not one application for Dale farm has been refused therefore neighbours of the factory do not get involved in the process as seems pointless;*



All planning applications are considered on a case by case basis against prevailing planning policy and all relevant material considerations, any letters of representations received will be carefully considered prior to any recommendation or determination therefore these claims by the objector are not accepted. All previous planning permissions were considered against the prevailing planning policy at that time and determined that the existing business was allowed to operate at this location.

- *Not neighbour notified and advises this is not the first time they have not been properly informed;*

In response to the comments raised by the objector; the Planning (General Development Procedure) Order (Northern Ireland) 2015 places a legislative requirement to serve notice of an application to any identified occupier on neighbouring land. Neighbouring land is defined as land which directly adjoins the application site or which would adjoin it but for an entry or a road less than 20 metres in width. No.14 was not identified as directly adjoining the red line of the application site (or would adjoin but for an entry or road) therefore this is why the objector did not receive a neighbour notification letter.

- *Argues the development will have a huge impact on their life. Concerns with lighting around the factory since upgrade to energy saving LEDs a year ago which resulted in additional lights which is annoying and distracting particularly in winter months. Noise currently just acceptable for sleeping at night, queries will the new development cause additional noise.*

In terms of the objector's claims regarding lighting, these appear to make reference to the existing facilities on site and not the proposed development. In considering the development proposed, Environmental Health were consulted and have considered the letter of representation. EHD have not outlined any concerns regarding lighting and following a request for the applicant to demonstrate that noise from this proposal will be at least 10 dB below existing background noise levels, the agent provided additional information and EHD have advised the applicant has demonstrated that nearby residential properties are unlikely to experience any increase in noise from the factory as a result of this application. In light of EHD response, there is no evidence presented that the proposed development will give rise to increased noise or light pollution. It will be the applicant's responsibility to ensure no detrimental impact occurs to residential amenity and should detrimental noise or light pollution be negatively impacting on residential amenity this should be reported to or NIEA Industrial Pollution and Radio Chemical Inspectorate or Mid Ulster Council Environmental Health to investigate.

### **History on Site**

LA09/2021/1731/F - Extension to the existing cheese plant & alterations to roof profile of existing building - Lands at 141 Moneymore Road, Dunman Bridge, Cookstown – Under Consideration

LA09/2021/1533/F - Retention of additional balance tank and associated site works at an existing effluent treatment plant at existing cheese processing factory (amended description) - Lands at 141 Moneymore Road, Dunman Bridge, Cookstown – Under Consideration

LA09/2018/0016/F - Proposed upgrade of existing drying facilities within existing cheese processing factory - Permission Granted 30/01/19

LA09/2017/1330/DC - Discharge of condition 5 of Planning Permission  
 LA09/2015/0885/F- Solar Farm adjacent to Dale Farm Complex, Cookstown- Condition Discharged

LA09/2016/1816/F - Extension of an existing vehicular lane to provide access to the approved Dale Farm Solar Farm (LA09/2015/0885/F) - Permission Granted 13/4/17

LA09/2016/1650/F - Extension of the existing Dale Farm dairy and factory facility at Dunman Bridge, Moneymore Road to provide; additional cold storage warehousing; reconfiguration of dispatch bay; new palletising line; and relocation of powder store (Approved under I/2013/0124/F) - Permission Granted 10/07/17

LA09/2015/0885/F - Installation and operation of a 4.9MWp solar farm and associated infrastructure including photovoltaic panels, mounting frames, 3 no. control rooms, fencing pole mounted security cameras, underground and over ground electricity cables -Approx. 350m south of the Dale Farm complex, 139 Moneymore Road, Cookstown- Permission Granted 5/01/16

I/2013/0362/F - Proposed extension to existing factory including ground floor hygiene facilities and first floor office - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 25/03/14

I/2013/0200/F - Retention of 5 no. tanks to the front of the main factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 12/06/14

I/2013/0124/F - Proposed extension and alterations to existing powder store and dispatch at existing factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 11/09/13

I/2012/0068/F - Proposed 2 storey extension to existing factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 08/06/12

I/2012/0439/F - Proposed storage tanks serving existing milk processing factory- 139 Moneymore Road, Dunman, Cookstown - Permission Granted 21/01/13

I/2012/0376/A - 1 no. wall mounted illuminated company logo in substitution of previously approved planning application I/2011/0399/A - Permission Refused 19/04/13

I/2011/0399/A - 1 no wall mounted non illuminated company logo - Dale Farm Ltd, 139 Moneymore Road, Dunman, Cookstown - Permission Granted 06/04/12

I/2007/0102/F - Instalation of 4 new stainless steel tanks- 139 Moneymore Road, Dunman, Cookstown - Permission Granted 18/06/07

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

Cookstown Area Plan 2010 - The site is within the development limits of Dunman. The Area Plan recognises that the settlement of Dunman is dominated by and centred on the Dale Farm Creamery and Food Processing Plant. It does not set out any industrial policies that relate to this site. The plan has designated an LLPA within the settlement

that is located along the River to the East of the site. The application falls just outside this designated area.

Strategic Planning Policy Statement for Northern Ireland - The SPPS gives provision for Economic Development, Industry and Commerce subject to a number policy provisions. It does not present any change in policy direction with regards to industrial development in settlements. As such, existing policy will be applied (ie) Policies PED 1 and PED 9 of PPS 4.

PPS 3 - Access, Movement and Parking - The applicant has indicated on their P1 form that the proposal involves the use of an existing unaltered access to a public road. DFI Roads have been consulted and they have responded stating that they have no objection to the proposal. They acknowledge the proposed development is internal within the Dale Farm complex and no vehicular intensification expected as per P1 Application Form Table 25.

PPS 4 - Planning and Economic Development

Policy PED 1 deals with Economic Development in Settlements. This is the relevant policy as the site is located within the small settlement of Dunman. PED 1 states that a development proposal for a Class B2 light Industrial Use or Class B3 General Industrial Use will be permitted where it can be demonstrated that the scale, nature and design of the proposal are appropriate to the character of the settlement and it is not incompatible with any nearby residential use.

As identified in the Area Plan, Dunman is dominated by the Dale Farm Creamery and Industrial Site. The Industrial Buildings are critically viewed in the local skyline when travelling either direction along the Dual Carriageway and the Minor Lismoney Road to the Rear. The proposal comprises 5No. 100000L silos at approx. 14.2m and 2No. 150000L silos at approx. 16.4m located north of the existing factory with a 400kW chiller in between. The proposed silos in total cover an area of approx. 220m<sup>2</sup> and are located in close proximity to a number of existing silos within the complex. The second 200kw chiller is located east of the factory. The 400kw chiller is surrounded by a 4m acoustic barrier and the 200kw chiller has existing acoustic fencing to its rear. The proposal is considered minor when considered against the existing built form on site and does not represent a major expansion of an existing industrial enterprise. It is considered the visual impact of the proposal would be minimal in terms of the existing factory complex. It will be industrial in its nature and design and will be finished in materials reflective of materials in the rest of the building. Given the fact that the settlement is already dominated by the industrial complex this proposal will not have any impact on character.

PED 9 of PPS 4 sets out general criteria for Economic Development. This proposal is compatible with surrounding land uses, namely the industrial land use that dominates the settlement. EH have raised no concerns about the impact of the proposal on residential amenity by way of nuisance or pollution. Following the submission of further information, EHD have advised they are satisfied that the applicant has demonstrated that nearby residential properties are unlikely to experience any increase in noise from the factory as a result of this application. It is noted NIEA Industrial Pollution and Radio Chemical Inspectorate licence this factory under different legislation to that of Planning. HED are content that proposal will not impact on any features of archaeological importance, in particular LDY048:024. NIEA have been consulted and have raised no

objections subject to conditions. The proposal is located within a flood plain but as the development does not involve the creation of any additional ground floor space then flooding should not be impacted upon. All consultees are content and have not raised any concerns in respect of effluent. The proposal is considered minor in the context of the wider existing development on the site. The layout, design and landscaping are acceptable in this instance. There will be no additional staff or traffic movements as indicated in the P1 Form, therefore there should be no impact on the existing road network. DFI Roads are content with the access arrangements, parking and manoeuvring areas. Boundary treatments are not considered necessary in this instance given the siting of the proposal.

PPS 15 - Planning and Flood Risk - Rivers Agency have been consulted and have identified the site as being within a strategic fluvial flood plain. They have requested the submission of a Flood Risk Assessment (FRA) if Planning are of the opinion that the development can be treated as an exception under Policy FLD 1 of PPS 15. Having discussed this Rivers Agency response at a formal group meeting, it has been decided that an FRA is not necessary in this instance. This is because the proposal is located on existing hardstanding therefore does not involve any increase in hardstanding at ground level. The development proposed is all above ground level. As such, it would be onerous of the Council to insist that the applicant provide an FRA. There is no need for the submission of a Drainage Assessment under Policy FLD 3 as the proposal does not involve the change of use to new buildings or hard surfacing exceeding 1000m<sup>2</sup>.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered the prevailing planning policy and all material considerations outlined above, I am of the opinion that this application accords with the relevant policy tests and therefore is recommended for approval subject to the following conditions.

**Conditions**

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

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

2. Within 4 weeks of a written request by Mid Ulster District Council following a reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess noise levels against those detailed within the noise report date stamped 17<sup>th</sup> January 2022. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity.

3. If during the development works, new contamination or risks are encountered which have not previously been identified, works should cease and the Planning Authority shall be notified immediately. This new contamination shall be fully investigated in accordance with the Land Contamination: Risk Management (LCRM) guidance. In the event of unacceptable risks being identified, a Remediation Strategy shall be agreed with the Planning Authority in writing, and subsequently implemented and verified to its satisfaction. This strategy should be completed by competent persons in accordance with Land Contamination: Risk Management (LCRM) guidance, available at: <https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>.

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

4. After completing the remediation works under Condition 1 and prior to occupation of the development, a Verification Report needs to be submitted in writing and agreed with Planning Authority. This report should be completed by competent persons in accordance with the Land Contamination: Risk Management (LCRM) guidance. 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.

5. A detailed Construction Method Statement for in or near water works must be submitted to the Council, at least 8 weeks prior to the commencement of construction. The Construction Method Statement should consider any potential pathways for deleterious materials to enter the nearby watercourse and mitigation measures should be considered in line with SuDS principles and best practice.

Reason: To ensure effective mitigation measures are in place prior to commencement of development for the protection of the water environment.

### **Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

4. The applicant's attention is drawn to Rivers Agency consultation response dated 20<sup>th</sup> July 2021.
5. The applicant's attention is drawn to NIEA consultation response dated 21<sup>st</sup> June 2021.
6. The applicant's attention is drawn to NI Water consultation response dated 21<sup>st</sup> February 2022.
7. The applicant must refer and adhere to any relevant precepts contained in DAERA Standing Advice:
  - Commercial or Industrial Developments
  - Pollution Prevention Guidance
  - Discharges to the Water Environment
8. All standing advice referred to unless otherwise stated can be found at the following link [www.daera-ni.gov.uk/water-environment-standingadvice](http://www.daera-ni.gov.uk/water-environment-standingadvice).
9. The applicant should be informed that it is an offence under the Water (Northern Ireland) Order 1999 to discharge or deposit, whether knowingly or otherwise, any poisonous, noxious or polluting matter so that it enters a waterway or water in any underground strata.
10. Conviction of such an offence may incur a fine of up to £20,000 and / or three months imprisonment.
11. The applicant should ensure that measures are in place to prevent pollution of surface or groundwater as a result of the activities on site, both during construction and thereafter.
12. Northern Ireland as part of the UK is a signatory to the Convention for the Conservation of Salmon in the North Atlantic. This treaty requires signatory states to develop programmes of work to conserve, rationally manage and improve Atlantic salmon populations and their habitats within their jurisdiction. This work is scrutinised by the North Atlantic Salmon Conservation Organisation (NASCO).
13. We would like to draw the applicant's attention to Section 47 of the Fisheries Act (NI) 1966, which covers the applicant's responsibilities relating to Penalties for Pollution and the consequences of causing or permitting the release of any Deleterious materials into any waters.
14. The purpose of Conditions 1 and 2 are to ensure that the site risk assessment and remediation work is undertaken to a standard that enables safe development and end use of the site such that it would not be determined as contaminated land under the forthcoming Contaminated Land legislation i.e. Part 3 of the Waste and Contaminated Land Order (NI) 1997. It remains the responsibility of the developer to undertake and demonstrate that the works have been effective in managing all risks.
15. The applicant should ensure that the management of all waste materials onto and off this site are suitably authorized through the Waste and Contaminated Land

(Northern Ireland) Order 1997, the Waste Management Licensing Regulations (Northern Ireland) 2003 and the Water Order (Northern Ireland) 1999. Further information can be obtained from:

<https://www.daera-ni.gov.uk/articles/waste-management-licensing>

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

<https://www.daera-ni.gov.uk/articles/regulating-water-discharges>

16. RU recommend that the applicant consult with the Water Management Unit within the NIEA regarding any potential dewatering that may be required during the redevelopment works including the need for discharge consent. Discharged waters should meet appropriate discharge consent Conditions.
17. RU would recommend that the applicant considers the production of a Site Waste Management Plan (SWMP) for this proposed development. SWMPs are promoted as an example of best practice in the construction industry and a SWMP is a document that describes, in detail, the amount and type of waste from a construction project and how it will be reused, recycled or disposed of. Following the SWMP procedure could help to reduce the amount of waste produced and will help manage waste more effectively. Further information can be obtained from:  
<https://www.netregs.org.uk/environmental-topics/waste/storage-handling-and-transportof-waste/site-waste-management-plans-swmp/>  
<https://www.nibusinessinfo.co.uk/content/what-site-waste-management-plan-shouldcontain>

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0871/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a dwelling and domestic garage (Based on policy CTY10 dwelling on a farm)	<b>Location:</b> 110m North West of 140 Gulladuff Road Bellaghy
<b>Referral Route:</b>  Refusal - To Committee - Contrary to CTY 1, 10 and 13 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Paul Mc Erlean 49 William Street Bellaghy	<b>Agent Name and Address:</b> CMI Planners Ltd 38B Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Refusal - To Committee - Contrary to CTY 1, 10 and 13 of PPS 21.

### Characteristics of the Site and Area

The proposed site is located approximately 2km north west of the development limits of Bellaghy, as such the site is located within the open countryside as per defined by the Magherafelt Area Plan 2015. The site is currently accessed via a private laneway off the public road that already serves other residential properties. The proposed red line covers a portion of agricultural land that has been recently cleared of trees. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.

#### Representations

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

## Description of Proposal

This is an outline application for a proposed site for a dwelling and domestic garage (based on policy CTY 10 dwelling on a farm), the site is located approx. 110m North West of 140 Gulladuff Road, Bellaghy.

## Planning Assessment of Policy and Other Material Considerations

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Magherafelt Area Plan 2015  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 10 - Dwellings on the Farm

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane. Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response stated that the business has been allocated on the 1991. Went on to state that the farm business has made claims in each of the previous six years, as such I am content that the business is active and established as per required by policy.

With respect to (b), upon review of the farm business I note that after reasonable checks were done I am content that no other approval for a farm dwelling have been attained in the last ten years nor has there been any development opportunities sold off in this time. I note that a number of replacement opportunities have been attained but these have never been developed.

With respect to (c), I note that the registered address of the farm business sits in the development limits of Bellaghy, however through review of the farm business and confirmation by the agent that buildings were owned approximately 250m north east of the site. I note that these appear to be the only building on the farm and constitute as the existing group of buildings on the farm. I note that the site in this location would not be able to visually link and cluster with this group given the separation distance between the two. Justification was sought as to why any site couldn't be located beside this group as he owned other lands around the group. The agent provided a response to say that the reason he couldn't locate any dwelling further up as he didn't have a right of way and this is the reason as to why the replacements were never developed. Whilst I acknowledge this these are no overriding reasons nor deemed as an exception in the policy as this is not for health and safety reasons nor seen as an expansion in the farm. The policy states that where practicable to use an existing laneway for access, I note that the intention is to use an existing laneway. From such the application fails under CTY 10.

I note that no other policy case has been put forward and upon review of the guidance I hold the view that no other case would warrant approval for a dwelling under CTY 1.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application in which only an indicative block plan has been provided given the small size of the site. In which I am content that an appropriately designed dwelling will not appear visually prominent with the ability to integrate into the landscape given the existing landscaping around the site. Given the landform and surrounding development I feel it necessary to restrict any ridge height to 6.5m. However as previously noted this application does not cluster or visually link with an existing group of buildings on the farm as such it fails under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I am content that a dwelling in this location would not harm the rural character of the area and there is no conflict with CTY 14.

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

PPS 3 - Access, Movement and Parking;

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

A consultation was also sent to HED, who in their responded to confirm that HED (Historic Monuments) has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

I have no ecological or residential amenity concerns.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
<b>Summary of Recommendation:</b>  Refusal	
<b>Reasons for Refusal:</b>  1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.  2. The proposal is contrary to 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.  3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm.	
<b>Signature(s)</b>  <b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	9th June 2021
<b>Date First Advertised</b>	22nd June 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 140 Gulladuff Road Bellaghy Londonderry The Owner/Occupier, 24b Gulladuff Road Bellaghy	
<b>Date of Last Neighbour Notification</b>	29th June 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/0871/O Proposal: Proposed site for a dwelling and domestic garage (Based on policy CTY10 dwelling on a farm) Address: 110m North West of 140 Gulladuff Road, Bellaghy, Decision: Decision Date:  Ref ID: H/1993/6054 Proposal: ELECTRICITY SUB-STATION AND 110 KV/33 KV OVERHEAD LINES NEAR BELLAGHY MAGHERAFELT Address: NEAR BELLAGHY Decision: Decision Date:  Ref ID: H/2005/0189/O Proposal: Site of Dwelling and Garage Address: Approximately 60m due north of 128 Gulladuff Road, Bellaghy Decision: Decision Date: 19.08.2005  Ref ID: H/2002/0860/F Proposal: Replacement Dwelling and Garage Address: 134 Gulladuff Road, Gulladuff Decision: Decision Date: 17.12.2002	

Ref ID: H/2008/0235/F

Proposal: Proposed agricultural shed with associated under ground slurry tank and a further shed for agricultural storage

Address: Approx. 60m South of 126 Gulladuff Road, Bellaghy

Decision:

Decision Date: 18.11.2008

Ref ID: H/2005/0982/F

Proposal: Dwelling and garage.

Address: Approx 60m South of 126 Gulladuff Road, Bellaghy.

Decision:

Decision Date: 20.09.2006

Ref ID: H/2007/0633/F

Proposal: Proposed Replacement Dwelling & Garage with the retention of the existing dwelling.

Address: 126 Gulladuff Road, Bellaghy

Decision:

Decision Date: 22.10.2008

Ref ID: H/2006/0256/RM

Proposal: Proposed Dwelling & Garage.

Address: 60m Due North of 128 Gulladuff Road, Magherafelt

Decision:

Decision Date: 20.11.2006

Ref ID: H/2007/0641/F

Proposal: Replacement dwelling and domestic garage.

Address: Land adjacent to 138 Gulladuff Road, Bellaghy

Decision:

Decision Date: 17.06.2008

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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

Date of Notification to Department:

Response of Department:



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 05/04/2022	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1011/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 110m North East of 65 Roughan Road Stewartstown
<b>Referral Route:</b>  <ol style="list-style-type: none"><li>1. Contrary to Policy CTY 1 in PPS 21 in that there is no overriding reason why the development is essential and cannot be located within a settlement.</li><li>2. Contrary to Policy CTY 10 – Dwellings on Farms in PPS 21 as there are no buildings to cluster or visually link with on the farm holding.</li><li>3. Contrary to Policy CTY 10 – Dwellings on Farms in PPS 21 as there is not an active and established farm business at the site for the past six years.</li></ol>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Andrew Richardson 4 Lakeview Meadow Lurgan	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge
<b>Executive Summary:</b> The application site was previously part of a larger farm holding of 21 fields owned by the applicant's grandfather Mr Mervyn Richardson. When he passed away the farm was split between several family members including the applicant. The applicant has 5 fields including the application site and DAERA have confirmed the applicant is a Category 3 farm and has only had his DAERA farm business ID since 24 <sup>th</sup> February 2021. There are no buildings at the site that the proposed dwelling could cluster or visually link with.	
<b>Signature(s):</b>	

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**Case Officer Report**

**Site Location Plan**



**Consultations:**

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice

**Representations:**

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

**Characteristics of the Site and Area**

The site is in the countryside and outside any settlement limits as defined in the Dungannon and South Tyrone Area Plan 2010. The surrounding area is rural in character with predominantly agricultural fields and dwellings on single plots. There is only one dwelling in the immediate vicinity at the entrance to the access at No. 65. This is a single storey dwelling with a roadside frontage onto Roughan Road.



The application site is a cut-out of two agricultural fields and these are accessed via an agricultural laneway off Roughan Road. The topography of the land rises up steeply to the site where it levels off and there is a group of established trees directly adjacent to the site.

**Description of Proposal**

This is an outline application for a proposed dwelling and garage at 110m North East of 65 Roughan Road, Stewartstown.

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

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

**Representations**

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

**Planning History**

No planning histories at the application site.

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

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

**Cookstown Area Plan 2010**

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

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

**Planning Policy Statement 21**

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In addition, other types of development will only be permitted where overriding reasons are submitted why the development is essential and could not be located within a settlement. As this proposal is for a dwelling on a farm CTY 10 is the relevant policy in the assessment.

### **CTY 10 – Dwelling on a farm**

DAERA confirmed the farm business ID as stated on the P1C form has not been in existence for over 6 years and the farm business ID on the P1C form was only allocated on the 24<sup>th</sup> February 2021. DAERA state the site is part of a category 3 farm which means it is not intensively farmed. The applicant is Mr Andrew Richardson which has signed certificate A on the P1 form to demonstrate he owns all the land. On the P1C form the applicant states he inherited the farm from his grandfather. In an email from the agent dated 16<sup>th</sup> November 2021 it is confirmed the application site was previously part of a larger farm owned by the applicant's grandfather Mr Mervyn Richardson. The grandfather lived at 24 Newmills Road Stewartstown and owned 30ha split over 21 fields. Upon his passing away the farm holding was split between the following family members. Fields 4,5,6,7 & 8 on the farm maps were willed to Andrew Richardson who is the applicant. These lands are the only lands he owns and the other fields were given to various family members. They all have their own established farm businesses.

As evidence to demonstrate the land has been maintained in good agricultural condition for the past six years receipts have been submitted from 2013 to 2021. The receipts for 2013 to 2020 relate to the original landowner Mr Mervyn Richardson who farmed the land and claimed DAERA subsidies on it. A receipt for 2021 has been submitted from the applicant Mr Andrew Richardson from D and R Moffett Limited agricultural contractors for hedge cutting at the site. There is also a receipt for insurance at the site. I consider the applicant has not submitted enough evidence that he has been actively maintaining the land for the past 6 years.

Paragraph 5.40 on CTY 10 states that planning permission will not be granted for a dwelling under this policy where a rural business is artificially divided for the sole purpose of obtaining planning permission. I am of the opinion this has happened in this case as the site was part of a larger farm and has been split up into smaller farms within the past 10 years.

There are no buildings on the site to cluster or visually link with. Therefore I consider this fails the test in CTY 10 that the proposed dwelling should visually link or cluster with an established group of buildings on the farm. The applicant has submitted 2021 farm maps to show all the land owned. There are no other buildings on these maps to cluster/link with. The applicant does state on the P1C form this is the first building on the farm. A check of the planning histories shows there are no other planning approvals on the land owned.

Overall, I am not content the applicant has met all the criteria in CTY 10 as there are no planning approvals on the land which would demonstrate plans to extend the farm business to this site. In addition, there are no farm buildings or a farm dwelling at the site to cluster or visually link with.

### **CTY 13 - Integration and Design of Buildings in the Countryside**

The land rises up steeply at the site from the Roughan Road to the back of the site where it levels off. As shown in figures 1 to 4 below there are critical views of the dwelling in both directions. To the south west there will be no long distance critical views and the dwelling will only be visible when directly at the road in front of the site. To the north east there will be more open views but the dwelling would site against the backdrop of trees which are within the applicant's ownership.



Fig 1 – The proposed dwelling will be located to the rear of the trees



Fig 2 – Critical view from the road to the northeast travelling towards Newmills





Fig 3 – Critical view from the road from the southwest at No. 65



Fig 4 – Long distance critical view from the southwest

As stated previously there is a grouping of established trees abutting the western boundary of the site and a hedging along the southern boundary and the remaining boundaries are undefined. I consider there is a minimal sense of enclosure as the site is a cut-out of a larger field and has a steep open topography up to it. However there the backdrop of the established trees will assist in integrating the proposal into the landscape.

The proposed dwelling will be accessed off an existing agricultural laneway and will run along hedging so I am content the access will not have an unacceptable impact on rural character.

The design of the dwelling would be considered at the reserved matters stage.

Overall I am content a dwelling of an appropriate scale and massing could integrate at this site due to the backdrop of existing vegetation.

#### **CTY 14 – Rural Character**

As stated earlier I am content a modest single storey dwelling would not be unduly prominent in this location due to the backdrop of existing trees which are within the

applicant's ownership. I consider the proposal will not result in a suburban style build-up of development as there is minimal development pressure in the vicinity from the construction of single dwellings. Overall I believe an appropriately sized dwelling would not have an unacceptable impact on rural character.

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

**AMP 2 – Access to public roads**

DFI roads were consulted as the proposal will result in the creation of a new access to the public road. DFI roads were content subject to visibility splays of 2.4m x 90m and informatives.

**Other Considerations**

I checked the statutory NED, HED and flooding map viewers and I am content there are no other issues at the site that need consideration. The site is not within an ecological, historical or flooding zones.

**Neighbour Notification Checked**      Yes

**Summary of Recommendation:**

The proposal is recommended for refusal as it does not meet criteria c in CTY 10 or CTY 1 in PPS 21.

**Reasons for Refusal:**

1. Contrary to Policy CTY 1 in PPS 21 in that there is no overriding reason why the development is essential and cannot be located within a settlement.
  
2. Contrary to Policy CTY 10 – Dwellings on Farms in PPS 21 as there are no buildings to cluster or visually link with on the farm holding.
  
3. Contrary to Policy CTY 10 – Dwellings on Farms in PPS 21 as there is not an active and established farm business at the site for the past six years.

**Signature(s)**

**Date:**



Development Management Officer Report  
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1066/F	Target Date:
Proposal: Proposed cattle house and machinery shed.	Location: Approx. 148m NW of Junction of Hillside Road & Gortead Road Swatragh BT46 5QH.
Referral Route:  This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	Refusal
Applicant Name and Address: Mr PJ Lagan 12 Beagh Road Swatragh Maghera BT46 5PX	Agent Name and Address: DM Kearney Design 2a Coleraine Road Maghera BT46 5BN
Executive Summary:	
Signature(s):	



## Case Officer Report

## Site Location Plan



## Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Strategic Applications	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	DAERA - Coleraine	Substantive Response Received
Non Statutory	NI Water - Single Units West - Planning Consultations	Consulted in Error

## Representations:

Letters of Support	None Received
Letters of Objection	None Received

Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received
<p>Summary of Issues including Representations</p> <p>No representations have been received in respect of this proposed development.</p>	
<p>Characteristics of the Site and Area</p> <p>The site is a contained site with a road frontage onto the Gorteade Road. There is a 2m wide grass verge along the site frontage from where the site rises up gently from the road to an area which has been excavated and used for storing large amounts of concrete/hardcore/rubble. A large articulated lorry trailer is parked on the site close to the proposed location of the shed.</p> <p>The site boundaries are defined by :-</p> <p>Southern – mature trees;</p> <p>North eastern/road frontage – post and wire fencing with 1.2m high whips to the rear;</p> <p>North western – 2m high thorn hedge;</p> <p>Western – 2m high thorn hedge.</p> <p>The site sits approximately 1.5m above the level of the adjoining field to the north.</p> <p>This part of the Gorteade Road is characterised by mainly single dwellings set back from the road or along laneways. The site is a rectangle cut out from a larger roadside field and extending to the roadside.</p>	
<p>Description of Proposal</p> <p>The proposal is describes as ‘proposed cattle house and machinery shed’ and measures 18.3m x 9.2m with a side annex measuring 7.5m x 2.4m with an overall footprint of 186 m<sup>2</sup>. The proposed shed has a ridge height of 5.7m with an eaves height of 4.3m. The shed is divided up internally to provide a cattle pen, a feed passage, calving pens, a handling area and feed/machinery storage area. The external finishes are typical of agricultural buildings with dark green metal cladding to the roof and walls over concrete walls finished in a wet dash. There are two large roller shutter doors, one in the north-eastern gable and the second door in the south eastern elevation.</p> <p>The proposal is to site the shed on the existing excavated part of the site close to where the existing lorry container is parked. A yard area is proposed around the north eastern and south eastern sides of the shed with the remainder of the site retained as a paddock area.</p>	
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>Relevant planning history</p>	



Reference	Location	Proposal/Complaint	Status	Date
H/2007/0074/F	450m south of 58 Gorteade Road, Swa	Retrospective farm workers dwelling and garage.	PERMISSION REFUSED	01.05.2007
H/2006/0343/F	450m South of 58 Gorteade Road, Swa	Dwelling & Garage (retrospective application)	PERMISSION REFUSED	10.11.2006
H/2002/0977/O	Aproximately 160m NW of Hillside Road	Site of dwelling and garage.	PERMISSION REFUSED	04.05.2005
H/1998/0213	ADJACENT TO 8A HILLSIDE ROAD L	SITE OF DWELLING AND GARAGE	APPLICATION WITHDRAWN	
H/2002/0498/O	Approximately 250 metres North East o	Site of Dwelling and Garage	PERMISSION REFUSED	28.04.2005
LA09/2021/1066/F	Approx. 148m NW of Junction of Hillside	Proposed cattle house and machinery shed.	VALID APPLICATION RECEIVED	
H/2006/0073CA	450m South of 58 Gorteade Road Swa	Operational Devt	ENFORCEMENT CASE CLOSED	
2006/E017	450m South of 58 Gorteade Road Swa			

The most relevant of the planning history on this site are:-

H/2002/0498/O – Site of dwelling and garage – Refused 25.04.2005

H/2006/0343/F – Dwelling and garage (Retrospective application) – Refused 08.11.2006

H/2007/0074/F – Retrospective farm workers dwelling and garage – Refused 26.04.2007

H/2006/0073CA (Enforcement case) – Unauthorised erection of a dwelling.

2006/A017 – Alleged unauthorised erection of a dwelling and garage – Appeal dismissed 01.07.2007

#### Development Plan and key policy considerations

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

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

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

PPS 21 Policy CTY 12 Agricultural and Forestry Development states the planning permission will be granted for development on an active and established agricultural or forestry holding where the proposal satisfies all the stated criteria. Therefore it is necessary to first consider if the farm business is both active and if it has been established for more than the required period of 6 years. DAERA have confirmed that the farm business stated on the P1C has been established for more than 6 years and that it has claimed payments in each of the last 6 years. There the business is both active and established for the required time.

Subsequently it is necessary to assess the proposal against each of the policy tests as follows:-

- The proposed development is necessary for the businesses efficient use; Despite being requested, the applicant has failed to provide any justification for the need for the proposed shed and how it is necessary at this location.
- it is appropriate in terms of character and scale;

The proposed shed may be considered appropriate in terms of character and scale as it is proposed to be used as animal, fodder and machinery shelter.

- it visually integrates;

Although the site occupies an elevated location in the landscape, it does have established boundaries which would help the proposed building to achieve a sense of integration. The site does have a sense of enclosure which would help the building to integrate into the surrounding landscape.

- there will be no adverse impact on natural or built heritage;

There will be no adverse impact on natural or built heritage.

- there will be no detrimental impact on residential amenity;

As the proposed building is located on a site and would be around 90m from the nearest neighbouring dwelling it will not have a detrimental impact on residential amenity.

Furthermore the policy requires that where a new farm building is proposed, the applicant needs to demonstrate that there are no existing farm buildings which can be used, the design and materials are sympathetic to the locality and the proposed building is adjacent to the existing farm buildings.

Whilst this is a new farm building located away from any existing farm buildings, the applicant has not demonstrated that there are no suitable existing buildings on the holding which can be used.

The design and materials are traditional to farm buildings and are acceptable in that respect.

As stated above, this is the first building at this location and therefore it is not sited beside any existing farm building. An exception may be made to this policy test provided there are no other sites available at another group of farm buildings on the holding or where it is essential for the functioning of the business or there are health and safety reasons.

No persuasive argument has been made to suggest that there are no other suitable sites available and it is not accepted that this particular site is essential and not simply desirable and no health and safety reasons have been provided. Furthermore, the applicant has failed to satisfactorily demonstrate why the building is necessary at this particular location and why it could not be sited at the existing farmyard. The site is part of the largest parcel of ground indicated on the farm map and clearly has access through the applicant's fields to other farm buildings on the holding. Therefore, in my opinion, it is not accepted that there is any need for a farm shed to be sited at the outer edge of the farm and away from the main farmyard. This is particularly the case as the proposed shed is to be used for calving purposes, when it is more beneficial to have stock close to the main yard so they can be easily monitored and tended to. Consequently, the proposal is considered to be contrary to the key tests of this policy.

CTY 13 Integration and design of buildings in the countryside.

As the site has the benefit of established boundaries, normally the proposed building would achieve an acceptable degree of integration. However, as the proposed building is to be set away from the existing farmyard and not close to or adjacent to any existing buildings on the farm, it is contrary to the key tests of this policy and therefore fails to

integrate. Given the above, the proposed building is considered to be contrary to the policy tests of CTY 13.

#### CTY 14 Rural Character

The proposal does not offend this policy as the proposed site is not considered to be prominent, it does not result in a suburban style form of development, it respects the traditional settlement pattern in the area, it does not create or add to a ribbon of development and the ancillary works would not damage rural character.

#### PPS 2 Natural Heritage

##### Policy NH1 – European and Ramsar Sites – International

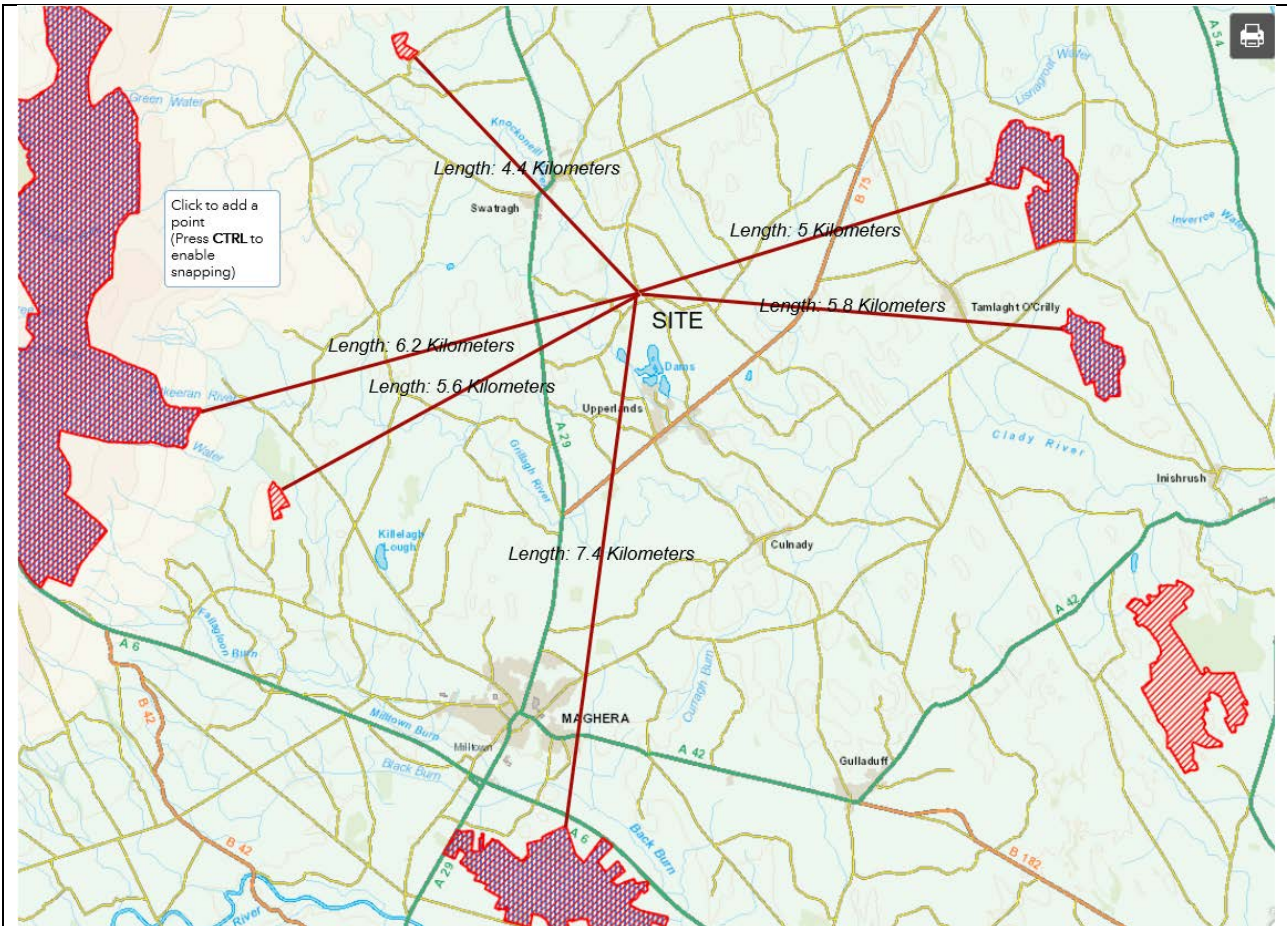
Planning permission will only be granted for a development proposal that, either individually or in combination with existing and/or proposed plans or projects, is not likely to have a significant effect on a European Site including Special Areas of Conservation. Where a development proposal is likely to have a significant effect (either alone or in combination) or reasonable scientific doubt remains, Council shall make an appropriate assessment of the implications for the site in view of the site's conservation objectives. In light of the conclusions of the assessment, Council shall agree to the development only after having ascertained that it will not adversely affect the integrity of the site.

##### Policy NH3 – Sites of Nature Conservation Importance – National

Planning permission will only be granted for a development proposal that is not likely to have an adverse effect on the integrity, including the value of the site to the habitat network, or special interest of, including an Area of Special Scientific Interest. A development proposal which could adversely affect a site of national importance may only be permitted where the benefits of the proposed development clearly outweigh the value of the site.

The proposed site is within 7.5Km of a number of ASSI's as identified in the map below and as detailed, insufficient information has been submitted to enable a proper assessment of the likely impact of the proposal on those sites. The proposed development is therefore contrary to Policy NH 3.

As the proposal is within 7.5km screening distance of Carn/Glenshane SAC/ASSI, Ballynahone Bog SAC/ASSI, Wolf Island Bog SAC/ASSI and Dead Island Bog SAC/ASSI, a Habitats Regulations Assessment is required. To enable the HRA to be completed, the applicant was requested on three occasions (16.08.2021, 06.12.2021 & 12.01.2022) to provide an assessment of potential impact of ammonia emissions from housing (including slurry storage), grazing and land spreading of slurry on these European sites and any other nationally designated sites or habitats. However, the applicant failed to provide any of the required information to enable Council to undertake the appropriate assessment. Therefore, in the absence of this information, the proposed development is contrary to Policy NH1



Map showing the site in relation to designated SAC's and ASSI's within 7.5Km



Indicates designated ASSI's



Indicates designated SAC's

### Recommendations

That planning approval be refused for the proposed development for the reasons listed below:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Refuse for the reasons listed below:-

Reasons for Refusal:

1. The proposal is contrary to Policy CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it has not been satisfactorily demonstrated that:-

- it is necessary for the efficient use of the active and established agricultural holding;
- there are no suitable existing buildings on the holding or enterprise that can be used;
- the proposal is sited beside existing farm buildings;
- there are no alternative sites available at another group of buildings on the holding;
- health and safety reasons exist to justify an alternative site away from the existing farm buildings; and
- that the alternative site is essential for the efficient functioning of the business.

2. The proposed development is contrary to Planning Policy Statement 2, Natural Heritage - Policy NH1 European and Ramsar Sites - International, in that as provided for within Section 40 of the Planning Act (Northern Ireland) 2011, the applicant has failed to provide sufficient information to enable Mid Ulster District Council to undertake a Habitats Regulation Assessment to determine this proposal, in respect of the likely impact on European Sites including Special Areas of Conservation.

Signature(s)

Date:

ANNEX	
Date Valid	15th July 2021
Date First Advertised	27th July 2021
Date Last Advertised	
Details of Neighbour Notification (all addresses)	
N/A	
Date of Last Neighbour Notification	N/A
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: H/2007/0074/F            Proposal: Retrospective farm workers dwelling and garage.            Address: 450m south of 58 Gorteade Road, Swatragh            Decision:            Decision Date: 01.05.2007</p> <p>Ref ID: H/2006/0343/F            Proposal: Dwelling &amp; Garage (retrospective application)            Address: 450m South of 58 Gorteade Road, Swatragh            Decision:            Decision Date: 10.11.2006</p> <p>Ref ID: H/2002/0977/O            Proposal: Site of dwelling and garage.            Address: Aproximately 160m NW of Hillside Road and Gorteade Road junction, Upperlands.            Decision:            Decision Date: 04.05.2005</p> <p>Ref ID: H/1998/0213            Proposal: SITE OF DWELLING AND GARAGE            Address: ADJACENT TO 8A HILLSIDE ROAD UPPERLANDS            Decision:            Decision Date:</p>	

Ref ID: H/2002/0498/O  
 Proposal: Site of Dwelling and Garage  
 Address: Approximately 250 metres North East of 11 Hillside Road, Upperlands  
 Decision:  
 Decision Date: 28.04.2005

Ref ID: LA09/2021/1066/F  
 Proposal: Proposed cattle house and machinery shed.  
 Address: Approx. 148m NW of Junction of Hillside Road & Gorteade Road, Swatragh  
 BT46 5QH.,  
 Decision:  
 Decision Date:

#### Summary of Consultee Responses

DfI Roads, DAERA and NI Water responded without raising any issues.

Shared Environmental Services advised that 'The proposal is within 7.5km screening distance of Carn/Glenshane SAC, Ballynahone Bog SAC, Wolf island Bog SAC and Dead Island Bog SAC. A Habitats Regulations Assessment is required.

The applicant is required to provide an assessment of potential impact of ammonia emissions from housing (including slurry storage), grazing and land spreading of slurry on these European sites and any other nationally designated sites or habitats that may be advised by NIEA.

#### Drawing Numbers and Title

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

#### Notification to Department (if relevant)

Date of Notification to Department:  
 Response of Department:



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

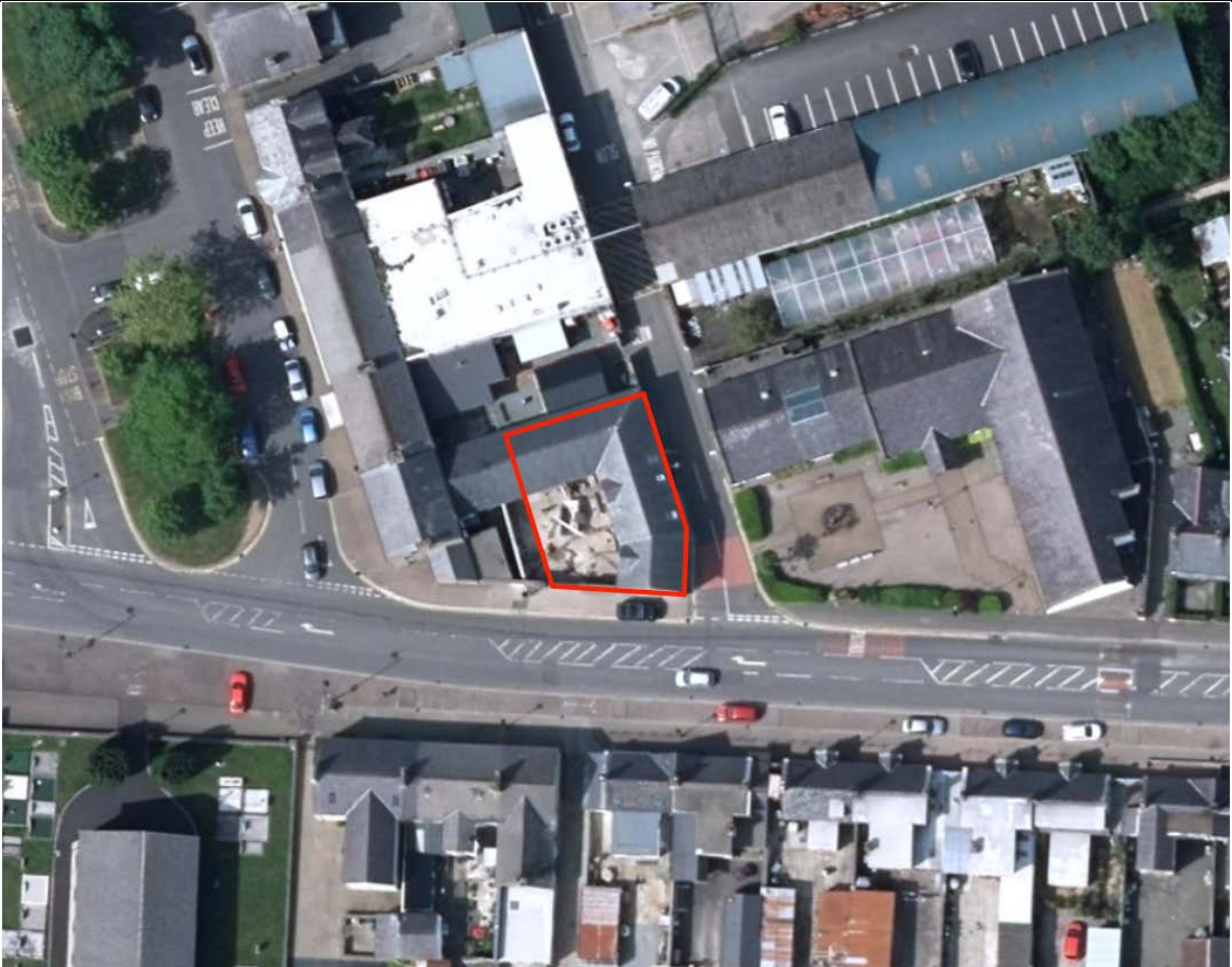
Development Management Officer Report  
 Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2021/1104/F	Target Date:
Proposal: Proposed new apartment 5 added to existing approved scheme with new window and door openings to yard elevation and side elevation	Location: 34 High Street Draperstown
Referral Route:  This application is being presented to Committee as it is being recommended for refusal.	
Recommendation:	Refusal
Applicant Name and Address: Cloane Construction 9 High Street Draperstown BT45 7LW	Agent Name and Address: Ward Design 10 Main Street Castledawson BT45 8AB
Executive Summary:	
Signature(s):	



Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	Substantive Response Received
Statutory	Historic Environment Division (HED)	Advice

Representations:

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

## Summary of Issues including representations

No objections have been received in respect of the proposed development.

## Characteristics of the Site and Area

Draperstown is a market town serving the surrounding rural hinterland and situated on the southern side of the Upper Moyola River Valley close to the foothills of the of the Sperrin Mountains and within Mid Ulster area. It is about 75Km northwest of Belfast, 40Km southeast of Derry and about 13Km northwest of Magherafelt.

Draperstown is a traditional crossroads type settlement based around the junction known as the Old Cross. The buildings are located in accordance with a clearly defined and well established building line. The fair green, which is a triangular feature in front High Street was extended and eventually became known as The Shambles. The Shambles is an outstanding characteristic of the village and together with the wide crossroads creates a distinctive settlement pattern.

Draperstown was a late Georgian settlement begun in 1818 and refounded with a major new building programme by the Drapers Company in 1838-39. All the buildings had were faced with dressed sandstone blocks and had pitched slated roofs with large pediments on the Meeting House and Market House, the latter also had a square clock tower.

Line construction was started in late 1881 on a railway to connect Desertmartin and Draperstown as 'an 11Km spur' to Magherafelt. Extensions to existing buildings should take the form and character of the parent building and should be such that they do not dominate or impair the characteristics of that building. There are several listed structures within the terrace of High street, Draperstown.



The above photo shows the site to the rear right hand side of Pauline Taylor Dental Surgery (grey building) with the listed terrace to the left

The application site is located on the approach from Magherafelt and is a key site with two important site frontages, namely High Street and Magherafelt Road. The site also has a frontage onto the Back Row. The site is set between the Heritage Centre on the Magherafelt Road frontage and High Street. High Street contains a terrace with a large number of Listed Buildings with only a single building not listed. The non-listed building



which is immediately adjacent to the proposed site however, shares similarities with the listed buildings in that it constructed with sandstone with a natural slate roof.



The above photo shows the site (grey building) between the Heritage Centre and the row of listed buildings on High Street

#### Description of Proposal

This is now a retrospective application as the development had already been largely completed by the time of the site inspection and is for a new apartment 5 added to existing approved scheme with new window and door openings to yard elevation and side elevation.

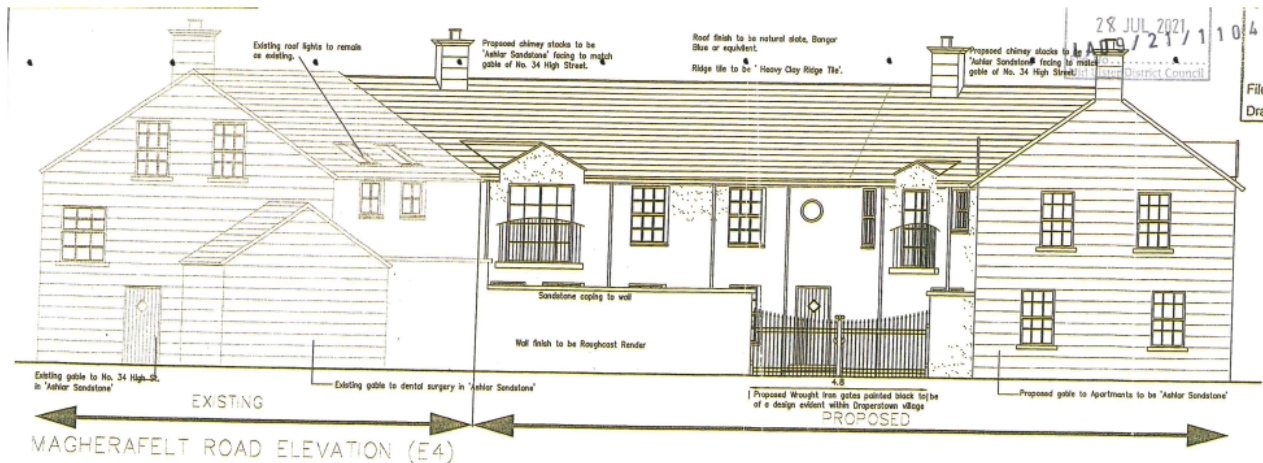


The proposed scheme as largely completed in context with the more typical sandstone building

The proposal is to create an additional apartment at ground floor level within an area which was previously approved as three parking spaces for the four apartments approved under H/2005/1141/F. That proposal now reduces the curtilage parking from 6 no. spaces to 3 no. spaces.

This application seeks, not only to add an additional apartment to the site but also to change external finishes and to add new window and door openings.

The previously approved scheme had a gable wall onto Magherafelt Road which was to be Ashlar Sandstone to replicate the finish of the existing gable at the corner of Magherafelt Road/High Street which also carries around the corner and the entire length of High Street. The proposal also indicates this same gable to be Ashlar Sandstone, however, it has been finished in smooth sand/cement and painted grey.



The previously approved scheme (H/2005/1141/F) showing the proposed gable to the right hand side to be constructed in Ashlar Sandstone.

The size and design of the windows have also changed from the previous approved scheme. What has been provided on site does not reflect either the previously approved design nor the current scheme.

The layout of the previously approved four apartments have also changed in terms of the size, layout and position of doors and windows.

#### Planning Assessment of Policy and Other Material Considerations Include Development Plan and planning history

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

LA09/2021/0762/NMC 34 High Street, Draperstown Proposed new apartment no.5 added to existing approved scheme with new window and door openings to yard. Decision Letter Refused 16th June 2021.

H/2005/1141/F 34 High Street, Draperstown Change of use from storage workhouse to 4 no. residential apartment with parking and internal courtyard. Approved 28.12.2006

H/2001/0833/F 34 High Street, Draperstown Extension and Alterations to Dental Surgery

The proposal is in accordance with the Magherafelt Area Plan 2015 insofar as it is for a single apartment within an urban area.

#### Design and Access Statement

A design and Access statement was submitted in support of the proposed scheme and details the following:-

The proposed development involves the restoration and enhancement of an existing building/warehouse located in the conservation area and seeks to attract residents back to living in the centre and help sustain the vitality of the village centre. The apartment offers a kitchen, dining/living area, 2 bedrooms and bathroom and will require a number of new openings to provide adequate light and emergency egress. All external changes will match the existing approved materials and finishes (my emphasis).

The proposed development is located within close proximity to public transport links, available at convenient times throughout the day between Magherafelt and Omagh, with the nearest bus stop within 64m of the development.

The existing access along the High Street has been upgraded and provides double gates for vehicular access and a single gate for pedestrian use. There are 3 no. unassigned parking spaces provided in the courtyard and spare capacity within nearby public car park and adjacent on street parking is adequate to accommodate extra parking required. Residents would be encouraged to travel via bicycle and public transport when possible. Provision would be made for bicycle parking stands within the courtyard; hence a reduced number of onsite parking being required. The proposed apartment is located on the ground floor and will have level access for residents.

PPS 7 Quality Residential Environments – Policy QD 1 Quality in new Residential Environments requires new residential developments to create a quality residential environment which should be based on a concept plan which drawn on the positive aspects of the surrounding area. Proposals must conform to nine criteria listed in the policy in order to protect residential amenity, residential character, environmental quality and movement. Any proposals which fails to satisfy the criteria, even if the site is designated for residential use, will not be acceptable.

The proposed development is assessed against these criteria as follows:-

(a) The proposed layout meets the first of these criteria in that it respects the surrounding context in terms of layout; The layout proposes a single additional residential unit into a site which has approval for four apartments.

(b) features of the archaeological and built heritage, and landscape features are identified and, where appropriate, protected and integrated in a suitable manner into the overall design and layout of the development; Although there are no natural or built heritage features within the proposed site, the site lies within an important area in the Conservation Area and forms part of a block containing a large number of listed Buildings. The finishes shown on the proposed plans would be sympathetic to the listed terrace, however, the development as almost completed does not make use of these materials and instead has used alternatives such as smooth sand/cement, which is unacceptable in this location.

(c) adequate provision is made for public and private open space and landscaped areas as an integral part of the development; The proposal is for a single apartment within a site containing four additional approved units. The four units were approved without private amenity space and therefore it is not considered necessary for the proposed unit to provide any. It is also noted that the site is within the centre of Draperstown and close to existing public open space.

(d) As the site is close to and within walking distance of the centre of Draperstown, the provision of neighbourhood facilities are not deemed necessary within the site;

(e) The site is located on High Street and will provide an acceptable movement pattern, including walking and cycling, which will enable occupants to access public transport routes and the public network system;

(f) Adequate provision is made for parking of vehicles off street with all sites having in-curtilage parking areas;

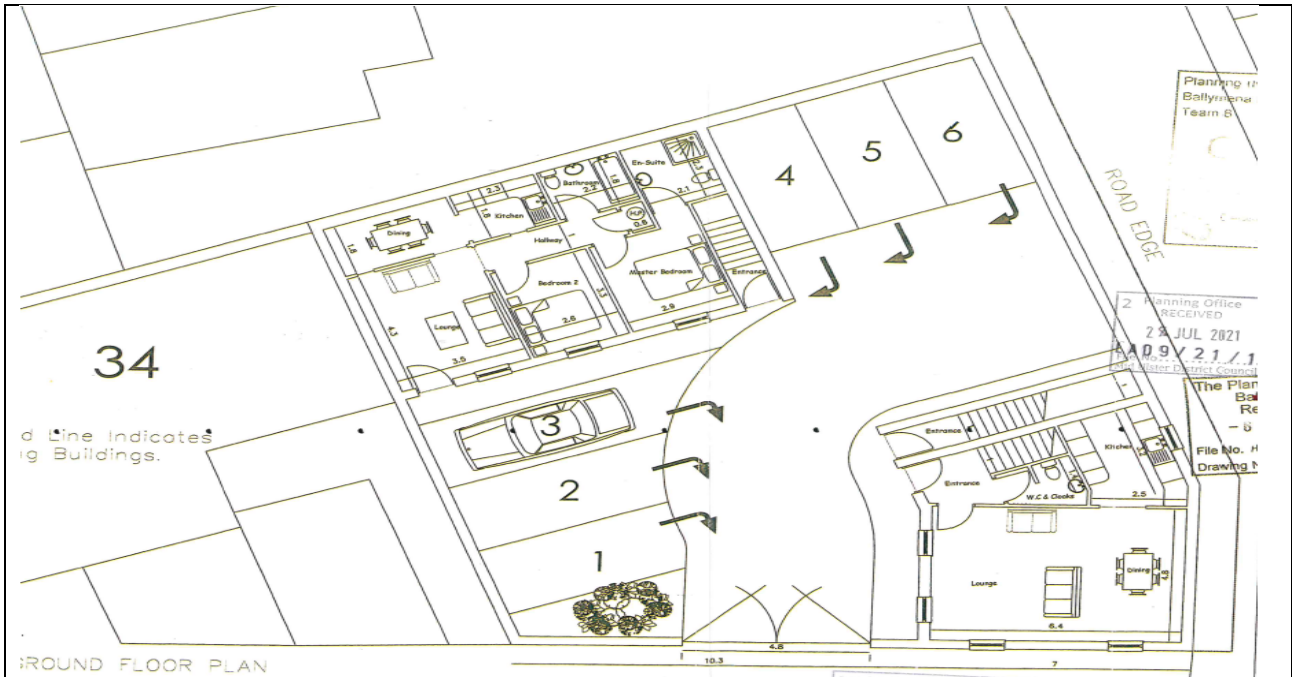
The proposed development reduces the amount of on-site parking spaces from 6 no. to 3 no. As the 6 no. spaces were approved to serve four apartments, the proposal is now providing only 3 no. spaces for five apartments.

DfI Roads were consulted and advised that they do not offer any objections subject to the following; the vehicular and pedestrian access is as per the previous approval and that the reduced parking provision is considered by Council.

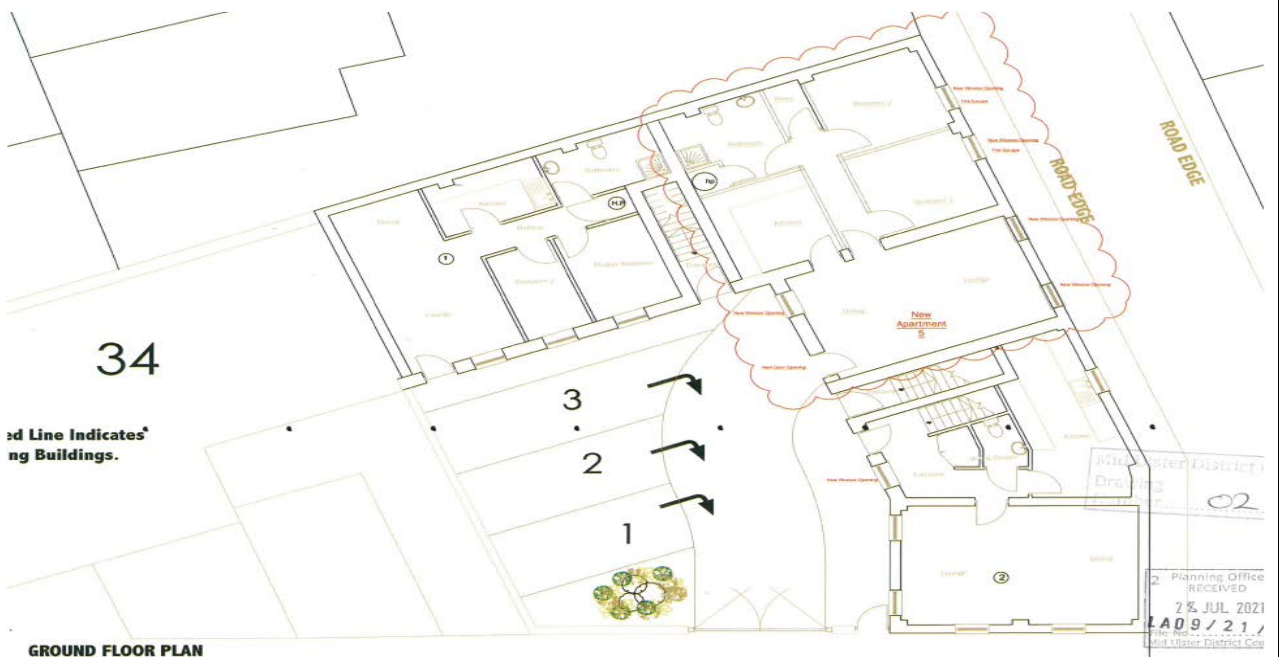
In considering the reduced level of parking it is acknowledged that the applicant has made a case for this, however, in my opinion, whilst it was deemed necessary to provide 6 no. spaces for four apartments, it is not acceptable to now reduce this to only 3 no. spaces for 5 apartments. Notwithstanding this, it is also noted that the 3 no. car parking spaces now proposed, do not work. If spaces 1 and 2 are occupied, it is then impossible for a vehicle to enter the third parking space and leave again without the need to reverse on to the public road as there is no facility to enable vehicles to turn within the site. The parking standards require a development of 5 no. two bedroom apartments with communal parking to have 7.5 parking spaces (1.5 spaces per apartment). This was achieved in the previous approved scheme. However the current proposal reduces the parking by 3 no. spaces rather than increasing this to take account of the additional apartment.

It is accepted that on site parking in Draperstown is a problem particularly as the town is extremely busy at peak times and on market days which results in a very high demand for on-street parking. Therefore to allow additional residential units which not only rely on on-street parking but reduce the capacity of the existing site is unacceptable and contrary to policy.





The previously approved scheme (above) showing 6 no. parking spaces with the current proposed scheme (below) reducing the parking to 3 no. spaces



(g) The design of the development is acceptable in terms of form, materials and detailing;  
 The overall form of the development may not change radically from the previously approved scheme, however, the materials and detailing are such that it introduces finishes which are not acceptable. The gable wall fronting onto High Street was previously approved as Ashlar Sandstone, to replicate the adjacent building at the opposing corner. However, the development, which has largely been completed has used a smooth sand/cement finish which is inappropriate for this site. It is also noted that the window openings as constructed on site do not match those as indicated on the

proposed plans. The roof lights on the Back Row elevation have not been provided and the remaining windows at first floor level in this elevation are not as detailed. The window openings at ground floor level on the High Street gable elevation are shown on the proposed plans as having a vertical emphasis, however, these openings have been constructed wider and now have an inappropriate horizontal emphasis.

(h) The proposal will not create a conflict with adjacent land uses as it is within the existing approved residential site;

(i) Generally the layout is designed to deter crime as there are no areas which are unsupervised or overlooked.

Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage  
Policy BH 12 New Development in a Conservation Area

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

(a) the development preserves or enhances the character and appearance of the area;

In terms of Draperstown Conservation Area, due to the finishes used on site which are at odds with the submitted plans, the proposed design does not protect, conserve nor enhances the existing historic built fabric, character or appearance of High Street / Back Row and the wider Draperstown CA to the detriment of the nearby listed structures and important architectural features reflecting the early Georgian architecture established at the origins of this planned settlement. In addition, the actual physical structures now on site also do not protect, conserve nor enhances the existing historic built fabric, character and appearance of High Street / Back Row and the wider Draperstown CA.

(b) the development is in sympathy with the characteristic built form of the area;

The existing window openings on the High Street gable elevation at ground floor level are not sympathetic to the character of the area. These windows have a much wider horizontal emphasis as opposed to a vertical emphasis used on the rest of the development and which is characteristic of the wider area.

(c) the scale, form, materials and detailing of the development respects the characteristics of adjoining buildings in the area;

As detailed above, the materials used on the High Street elevation ie. smooth sand/cement finish as opposed to Ashlar Sandstone is inappropriate for this important elevation and is not acceptable. The window openings were previously approved as 'sliding sash' however the windows used are either top hung or side opening casement windows and are inappropriate in this site and are unacceptable.





(d) the development does not result in environmental problems such as noise, nuisance or disturbance which would be detrimental to the particular character of the area;

The proposal will not result in any issues such as noise, nuisance or disturbance.

(e) important views within, into and out of the area are protected;

The proposal will not impact on any important views either in or out of the area.

(f) trees and other landscape features contributing to the character or appearance of the area are protected; and

The proposal will have no impact in this regard.

(g) the development conforms with the guidance set out in conservation area documents.

Para. 4.5.1 of the Draperstown Conservation Area Design guide states that new windows within the Conservation Area should be of sliding sash construction and that casement windows will only be acceptable in exceptional circumstances and locations. It is of prime importance in retaining the unity and rhythm of the street scene that the size of the window openings and the style and profile of the windows which predominate are replicated in new buildings or building extensions.

The ground floor windows as stated above on the High Street elevation are contrary to this guidance and are therefore unacceptable.

Para. 4.6.2 of the Draperstown Conservation Area Design guide states 'It must be emphasised that the use of matching wall finishes and roofing materials are vital factors to consider within the Conservation Area. These impart to a building, its overall colour as seen from a distance and the texture of its external surfaces close to hand. It is therefore essential that a material chosen should relate in character to those already in use in the vicinity of the building and that the finishes to extensions should match the current building'.

With regards to the smooth sand/cement finish used on the High Street gable elevation, this is wholly inappropriate as it does not relate to the character of the existing building at the opposing corner of High Street/Magherafelt Road. Ashlar Sandstone was detailed on the previous approved scheme and was more appropriate on this key elevation.

PPS 3 – Access, Movement and Parking.

DfI Roads advised that they do not offer any objections subject to the vehicular and pedestrian access being as per the previous approval (H/2005/1141/F). Whilst the vehicular access to the site has been narrowed from the approved 4.8m to the proposed

3.5m, it is at the same location and is in addition to an adjoining pedestrian access. This arrangement is acceptable.

Roads also advised that the reduced parking is to be considered by Council. As detailed above, in my opinion, this is unacceptable as it relies almost completely on on-street parking as only two spaces are proposed whereby vehicles can enter and egress from the site in forward gear. Therefore in my opinion, the proposal is contrary to Policy AMP 2 in that it would if permitted prejudice road safety and significantly inconvenience the flow of traffic.

Recommendation

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

Neighbour Notification Checked	Yes
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Summary of Recommendation:

Refuse for the reasons listed below

Refusal Reasons

1. The proposed development is contrary to Planning Policy Statement 6 Policy BH 12 New Development in a Conservation Area in that the submitted plans do not reflect what exists on site and the materials used fail to preserve or enhance the character and appearance of the area and the development does not conform with guidance set out in the Draperstown Conservation Area Design Guide.
2. The proposed development is contrary to Planning Policy Statement 7 Policy QD1 Quality in New Residential Developments in that it would, if permitted, fail to provide adequate car parking resulting in vehicles not being able to enter, turn and leave the site in forward gear thereby prejudicing road safety and significantly inconveniencing the flow of traffic.

Signature(s)

Date:

ANNEX	
Date Valid	29th July 2021
Date First Advertised	10th August 2021
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 30 High Street, Draperstown, Londonderry, BT45 7AA</p> <p>The Owner/Occupier, 32 High Street, Draperstown, Londonderry, BT45 7AA</p> <p>The Owner/Occupier, 34 High Street Draperstown Londonderry</p> <p>The Owner/Occupier, 50 High Street Draperstown Londonderry</p> <p>The Owner/Occupier, 55 High Street, Draperstown, Londonderry, BT45 7AD</p> <p>The Owner/Occupier, 57 High Street, Draperstown, Londonderry, BT45 7AD</p> <p>The Owner/Occupier, 59 High Street, Draperstown, Londonderry, BT45 7AD</p> <p>The Owner/Occupier, Library 50a High Street</p>	
Date of Last Neighbour Notification	12th August 2021
Date of EIA Determination	N/A
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2021/1104/F          Proposal: Proposed new apartment 5 added to existing approved scheme with new window and door openings to yard elevation and side elevation          Address: 34 High Street, Draperstown,          Decision:          Decision Date:</p> <p>Ref ID: LA09/2021/0762/NMC          Proposal: Proposed new apartment 5 added to existing approved scheme with new window and door openings to yard elevation and side elevation          Address: 34 High Street, Draperstown,          Decision: CR          Decision Date:</p>	

Ref ID: H/1980/0236  
Proposal: SITE OF OFFICE DEVELOPMENT  
Address: 34 HIGH STREET, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1999/0471  
Proposal: SHOP SIGN  
Address: 3 HIGH STREET DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1993/6138  
Proposal: PROPOSED HERITAGE CENTRE 34 HIGH STREET DRAPERSTOWN  
Address: 34 HIGH STREET  
Decision:  
Decision Date:

Ref ID: H/1994/6041  
Proposal: CONST.OF RETAIL OFFICE & STORAGE ACCOMODATION 34 HIGH STREET DRAPERSTOWN  
Address: 34 HIGH STREET DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/2006/0177/F  
Proposal: Proposed internal change of use from existing shop to 1 No. dental surgery with reception, office area and disabled toilet  
Address: 34 High Street, Draperstown  
Decision:  
Decision Date: 25.09.2006

Ref ID: H/1995/0052  
Proposal: SHOP/OFFICE/STORAGE  
Address: 34 HIGH STREET DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/1978/0302  
Proposal: TEMPORARY MOBILE DRAPERY SHOP  
Address: 30 AND 32 HIGH STREET, DRAPERSTOWN  
Decision:  
Decision Date:

Ref ID: H/2001/0833/F  
Proposal: Extension & Alterations To Dental Surgery  
Address: 34 High Street, Draperstown.  
Decision:  
Decision Date: 19.11.2001

Ref ID: H/2011/0589/F

Proposal: Proposed extension and alterations to existing visitor centre to allow additional space for a proposed Youth Centre, classrooms and connection to St. Colm's Secondary School

Address: 50 High Street, Draperstown, BT45 7AD,

Decision:

Decision Date: 26.04.2012

Ref ID: H/2005/1141/F

Proposal: Proposed change of use from storage warehouse to 4 No. residential apartments, with parking and internal courtyard area.

Address: No.34 High Street, Draperstown.

Decision:

Decision Date: 04.01.2007

#### Summary of Consultee Responses

Consultees did not raise any issues.

#### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 03

Type: Proposed Floor Plans

Status: Submitted

Drawing No. 04

Type: Proposed Elevations

Status: Submitted

Drawing No. 05

Type: Proposed Elevations

Status: Submitted

Drawing No. 06

Type: Proposed Elevations

Status: Submitted

Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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

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

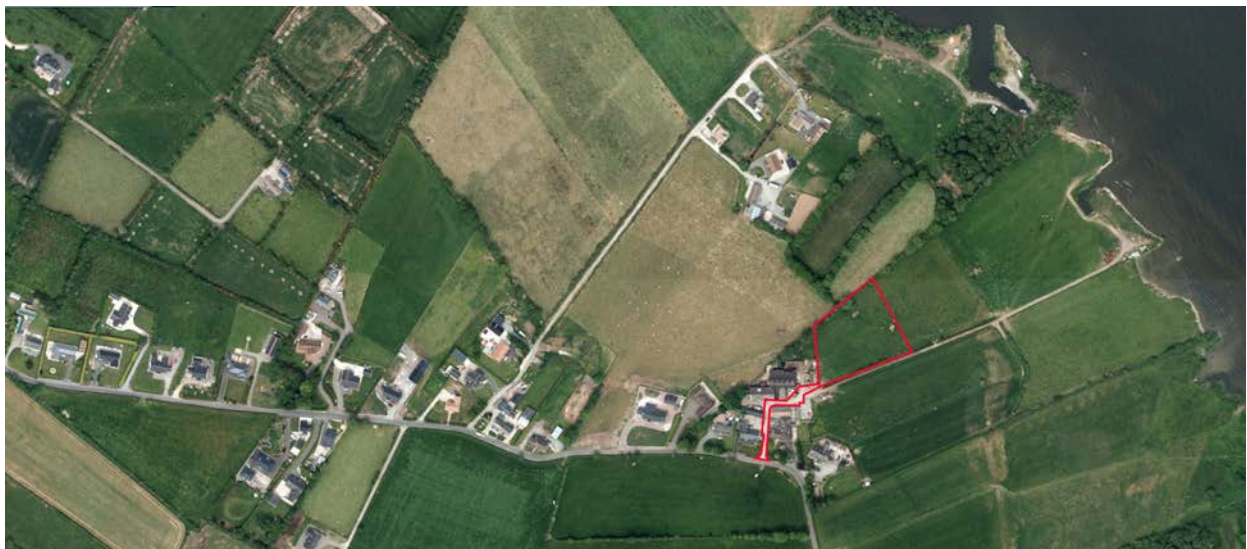
### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1228/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for new dwelling on a farm	<b>Location:</b> to rear of 45 Kinturk Road Coagh Cookstown
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Brian O'Hara 45 Kinturk Road Coagh Cookstown	<b>Agent Name and Address:</b> Gibson Design and Build 23 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary:</b> 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 a dwelling / development opportunity has been sold off from the farm holding within 10 years of the date of the application.	
<b>Signature(s):</b>	



# Case Officer Report

## Site Location Plan





<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DAERA - Omagh	Advice
Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support		None Received
Letters of Objection		None Received
Number of Support Petitions and signatures		No Petitions Received
Number of Petitions of Objection and signatures		No Petitions Received
<b>Characteristics of the Site and Area</b>		
<p>The site which sits adjacent the Kinturk Rd is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 2.7km north and 0.3km west of Moortown and Lough Neagh, respectively.</p> <p>The site, which is set back to the north of a sharp bend in the Kinturk Rd to the rear of a small cluster of development, is a flat relatively square shaped plot cut from the western half of a larger agricultural field.</p> <p>The aforementioned cluster of development running along the north side of the Kinturk Rd includes 5 detached roadside bungalows and a substantial no. of farm buildings (group) within the applicant's farm holding located to their rear / north. The dwellings all have individual accesses directly off the Kinturk Rd, as does the farm group. A hardcore driveway between 2 of the 5 dwellings, nos. 43 Kinturk Rd and 45 Kinturk Rd the applicant's home, accesses the farm group to their rear. No. 45, is located to the west of the driveway and no. 43 to the east. Access to the site is proposed via this driveway through the farm yard which is bound to both north and south by farm buildings.</p> <p>A mature hedgerow interspersed with trees defines the southern boundary of the site. It has an agricultural track running along its outside providing access to the Lough beyond. Mature tree and hedgerow vegetation defines the northern boundary of the site. A line of posts it would appear to be fenced with wire defines the western boundary of the site. The eastern boundary of the site is undefined onto the host field.</p> <p>Critical views of this site will be limited from the Kinturk Rd to passing between 2 of the 5 dwellings in the cluster it sits to the rear of, nos. 43 Kinturk Rd and the dwelling to its east. This is due to the site's location set back from Kinturk Rd to the rear of an existing line of roadside development, which alongside existing vegetation on site and within the wider vicinity screen it.</p> <p>Whilst the surrounding area is characterised primarily by flat agricultural lands on the shores of Lough Neagh the area has come under considerable development pressure in recent times with a no. of dwellings and ancillary buildings extending along largely the north side of the Kinturk Rd.</p>		
<b>Description of Proposal</b>		
<p>This is an outline application for a new dwelling on a farm to be located on lands to the rear of 45 Kinturk Road Coagh Cookstown.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Cookstown Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Development Control Advice Note 15: Vehicular Standards

Planning Policy Statement 21: Sustainable Development in the Countryside

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

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

**Representations**

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

**Relevant Planning History**

- I/2007/0469/F - Ms Clare O'Hara - 80m North of 72 Kinturk Road Coagh Cookstown Co. Tyrone - Ms Clare O'Hara - Granted October 2007

The site granted above (see Fig 1, below), containing a dwelling, belonged to the applicant Brian O'Hara until it was transferred off the farm holding to Daniel and Clare Clarke on the 13<sup>th</sup> April 2015.



Fig 1: Showing current site outlined red and previous site I/2007/0469/F outlined yellow.

## **Consultees**

1. DfI Roads were consulted in relation to access arrangements and raised no objection subject to standard conditions and informatives. Accordingly, I am content the proposal can comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted with a P1C Form and Farm maps submitted alongside the application. DAERA confirmed the farm business identified on P1C Forms and Farm maps has been active and established for over 6 years.

## **Consideration**

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

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside; and Statement 3: Access, Movement and Parking are retained.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These instances are listed in Policy CTY1 of PPS21 'Development in the Countryside' and include dwellings on farms in accordance with Policy CTY 10 of PPS 21 'Dwellings on Farms'.

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

1. the farm business is currently active and has been established for at least 6 years,

The applicant has a farm business and as confirmed with the Department of Agriculture, Environment and Rural Affairs (DEARA) this farm business (identified on P1C Forms and Farm maps submitted along with the application) has been active and established for over 6 years. I am content Criterion (1) of CTY 10 has been met.

2. 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 or since PPS 21 was introduced on 25th November 2008.

A history and land registry check of the applicant's farmlands indicated that a dwelling / development opportunity out-with settlement limits had been sold off the farm holding within the last 10 years from the date of the application 24<sup>th</sup> August 2021. For the purposes of this policy, 'sold-off' means any development opportunity disposed of from the farm holding to any other person including a member of the family. The site approved under planning application I/2007/0469/F - (see 'Relevant Planning History'), containing a dwelling, belonged to the applicant Brian O'Hara until it was transferred off the farm

holding to Daniel and Clare Clarke on the 13<sup>th</sup> April 2015. Criterion (2) of CTY 10 has not been met.

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

A dwelling on this site would cluster and visually link with the established group of buildings on the farm holding located just to the west / southwest of the site at and to the rear of no. 45 Kinturk Rd, the applicant's home. Criterion (3) of CTY 10 has been met.

CTY 10 goes on to say that the application site must also meet the requirements of Planning Policies CTY 13 Integration and Design of Buildings in the Countryside and CTY 14 Rural Character. I am content a dwelling of an appropriate size, scale and design with a ridge height no greater than 5.5m above FFL similar to those in the vicinity could integrate on this site and into the surrounding landscape without causing a detrimental change to, or further eroding the rural character of the area, in accordance with policies CTY13 and 14.

As detailed above, whilst criteria 1 and 3 of Policy CTY10 has / could be met subject to a suitably designed scheme to also comply with Policies CTY13 and 14, criteria 2 of CTY10 has not been met due to a dwelling / development opportunity having been sold off the farm holding therefore this proposal is contrary to CTY10.

#### **Additional consideration**

Had the principle this proposal been established, subject to a suitably designed scheme, I am content the amenity of neighbouring properties would not have been adversely impacted to any unreasonable degree in terms of overlooking or overshadowing. Whilst the proposed access to the site runs openly past the rear yards of nos. 45 and 43 Kinturk Rd, it is already used by vehicles accessing the applicant's farm group, as such its' use for this proposal would not have had any significantly greater impact for overlooking than currently exists. I would note no. 45 is the applicant's home and no. 43 would appear to have a private amenity space to its east side.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online have been checked and whilst there are no built heritage assets of interest on site, NED's map viewer shows the site to be within an area known to breeding waders. However, I am content that as this site is located on improved grassland it would have limited value to breeding waders.

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

#### **Recommendation**

Refuse

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 a dwelling / development opportunity has been sold off from the farm holding within 10 years of the date of the application.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation**

Refuse

**Refusal reasons**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that a dwelling / development opportunity has been sold off from the farm holding within 10 years of the date of the application.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1319/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed site of residential and mixed use development	<b>Location:</b> 29 - 35 High Street Draperstown
<b>Referral Route:</b> Refusal is recommended.	
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Applicant Name and Address:</b> H V Property Developments Ltd 28 Five Mile Straight Draperstown	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b> Proposal considered against prevailing planning policy. It is considered the proposal as it stands fails to comply with Magherafelt Area Plan 2015, the SPPS, PPS3, PPS6 and PPS7. No letters of representation received. This application is accompanied by a Conservation Consent application for the total demolition of No.29-35 High Street under reference LA09/2021/1768/DCA.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



**Consultations:**

Consultation Type	Consultee	Response
Non Statutory	Environmental Health	Substantive Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division	Advice
Statutory	Historic Environment Division	Advice
Non Statutory	NI Water	Substantive Response
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	DFI Roads - Enniskillen Office	Standing Advice

**Representations:**

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

**Characteristics of the Site and Area**

The application site is located within the settlement limits of Draperstown as defined in the Magherafelt Area Plan 2015 within the designated Draperstown Conservation Area. The site is located along High Street and comprises of 4 mid-terrace 2 storey (now derelict) buildings. No.29-31 were formerly used as a Doctors surgery. No.33 was

formerly a residential dwelling separated by an alley way to No.35 which also was formerly a dwelling. The separating alleyways provide a means of access to lands to the rear and associated back gardens which are overgrown. A lay-by area to the front of the buildings provides for an area of public realm and on-street car parking. Adjoining properties are primarily commercial in nature with the site opposite being occupied by an existing petrol filling station. Established industrial businesses are located to the SW including Heron Bros which are accessed via Cahore Terrace.

### **Description of Proposal**

This application seeks full planning permission for a residential and mixed use development comprising

- 2no. ground floor office units along High Street with 3no. first floor flats above as indicated on Drawing 03 Rev1; and
- 2no. three storey apartment blocks to the rear each with 7no. flats respectively as indicated on Drawing 04 Rev1 and 05 Rev1.

The application site is located at 29 - 35 High Street, Draperstown and as this is within a Conservation Area, consent is required to demolish these buildings therefore a Conservation Consent application was submitted LA09/2021/1768/DCA and is considered alongside this application.

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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- PPS 3 - Access, Movement and Parking
- PPS 6 -Planning, Archaeology and the Built Heritage
- PPS 7 - Quality Residential Environments
- Planning Strategy for Rural Northern Ireland
- Draperstown Conservation Area Guide

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

### **Representations**



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

### **History on Site**

LA09/2021/1768/DCA - Demolition of No's 29, 31 & 33 High Street Draperstown to allow for the re-development of the site for 2No offices & 3No apartment units. This application has been applied for under planning permission LA09/2021/1319/F - 29 - 35 High Street, Draperstown – Under consideration

H/2014/0183/F - Complete redevelopment of the site, 29-35 High Street, for offices, coffee shop, fitness centre and car parking - Nos 29-33 & 35 High Street Draperstown – Application Withdrawn 11/04/16

H/2014/0181/DCA – Demolition of nos 29, 31, 33 and 35 High Street, Draperstown to make way for the for the re-development of the site for offices, coffee shop, fitness centre and car parking - Nos 29-33 & 35 High Street Draperstown – Application Withdrawn 11/04/16

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

Magherafelt Area Plan 2015 is the extant area plan for the application site. The application site is located within the defined settlement limits of Draperstown and Conservation Area which covers the core of the village and was designated a Conservation Area in 1979. Being located within the Centre of Draperstown Conservation Area, this part of the streetscape is defined by a series of 'visual blocks' interspersed with gaps in between. Draperstown Conservation Area - Design Guide April 1995 states the attraction of the village derives not so much from the individual buildings but more from the grouping of the buildings and their overall scale and proportion in relation to the long established street pattern.

Planning Policy 6 – Policy BH14 sets out the Policy considerations surrounding demolition in a Conservation Area. The bold text of the Policy states clearly that demolition of an unlisted building will normally only be permitted in a conservation area where the building makes no material contribution to the character or appearance of the area. The Policy requires a presumption in favor of retaining any building which makes a positive contribution to the character or appearance of the conservation area. Account is required to be taken of the wider effects of demolition on the buildings surroundings and on the conservation area as a whole. In cases where demolition may be appropriate, for example where a building does not make any significant contribution to a conservation area, the council will normally require full detailed plans about what is proposed for the site. This planning application provides detailed plans for the redevelopment of the site which are considered below, however the primary and key matter for consideration is the contribution to the Draperstown conservation area by the existing buildings and the acceptability of the demolition.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the

principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS seeks to secure the protection, conservation and where possible, enhancement of our built and archaeological heritage; and deliver economic and community benefit through conservation that facilitates productive use of built heritage assets and opportunities for investment, whilst safeguarding their historic or architectural integrity. The SPPS states in managing development within a designated Conservation Area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Accordingly, there will be a general presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings, where proposals would conflict with this principle. This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations grounded in the public interest.

The SPPS states development proposals should only consider the demolition of an unlisted building where the planning authority deems that the building makes no material contribution to the character or appearance of the area and subject to appropriate arrangements for the redevelopment of the site. As detailed below and in the report for the accompanying Conservation Consent application (LA09/2021/1768/DCA), it is considered the buildings No.29-33 High Street make a material contribution to the character and appearance of Draperstown Conservation Area. Therefore, the total demolition of the existing buildings on site is considered unacceptable and contrary to policy. The proposal details the redevelopment of the site which includes the erection of new buildings along High Street comprising 2 no. ground floor offices and 3no. First floor flats. As well as this, the proposal includes the erection of 2no. 3 storey apartment blocks located to rear of the site, each comprising of 7 apartments respectively.

The application site is located within the settlement of Draperstown as defined in the extant Development plan. The SPPS states office uses may be restricted to town or district centres in order to promote the vitality and viability of the centre and elsewhere proposals should be determined on their individual merits, taking account of the potential impacts and the likely economic benefits. Draperstown does not have a designated town centre and the SPPS permits town centre type uses of an appropriate scale in villages. Whilst it is considered the provision of 2no. Office units on the application site may be acceptable given the surrounding mix of land uses, it is considered the proposed demolition is unacceptable and the replacement of existing buildings on site will negatively impact on the character and appearance of the area in terms of design and massing. Draperstown Conservation Area - Design Guide emphasises the importance of consistently applying high standards of design which will contribute to the attractiveness of the village. This is in recognition of the continuing need for development to improve and enhance the area and thereby assist in the ongoing regeneration of the Conservation Area. Internal consultation with the Environment and Conservation Team Conservation Officer has been carried out. The Conservation Officer has advised on the basis of the information provided refusal is recommended as no relevant evidence has been submitted to justify demolition of existing historic structures. Further information was requested by the Environment and Conservation Team which includes –

- Contextual and Cross Sectional Plans clearly illustrating the existing historic built structures in the context of High Street and with adjacent and adjoining historic built structures;
- Scaled Elevations and floorplans of the existing historic built structures;
- Conservation Structural Engineers Report; and
- Conservation Quantity Survey Report - record and assessment of the potential costs of repair of the existing historic built fabric.

As well as this, the Conservation Officer advised any existing trees within Draperstown Conservation Area are afforded protection under the Planning Act (NI) 2011 s.127 and s.128 and are a material planning consideration and additional surveys and information may be required should they be removed.

The planning history on the site is a material consideration and it is noted that a previous scheme for the demolition and redevelopment of the application site was recommended for refusal and subsequently withdrawn in 2016. As recognised by the previous case officer, it is agreed that the overall scale, form and proportions of the existing buildings are in keeping with the traditional character of the street. It is noted that No.29-33 exhibits some attractive detailing such as the vertical windows, decorative mouldings and substantial multi-pot chimneys, however No.35 appears to have been unsympathetically altered, this being evident in its dash finish and new window openings. Under the previous application, it was considered that the unsympathetic alterations to No.35 have resulted in this building no longer making a contribution to the conservation area. I accept and agree with this view that demolition of No.35 may be acceptable, however No.29 to 33 make a material contribution to the character and appearance of the conservation area and as such it is preferred that the buildings as a group be retained.

Significant concerns were relayed to the agent with respect to the need to demolish the buildings No.29-33 in the designated conservation area. A structural survey report was sought and the Conservation Officer's internal consultation response was sent to the agent to review and address. It was relayed to the agent that the outcome of LA09/2021/1768/DCA will have implications on the planning application LA09/2021/1319/F. The agent submitted a Condition Report by BCD Partnership dated November 2013 which was previously relied upon but not accepted under the previous application H/2014/0181/DCA. The agent has argued the buildings have come into a state of disrepair and have become derelict and unoccupied since 2013 and have now become a health and safety risk due to the structures being in a worse dilapidated state. The agent argued this condition report shows that this is the case and should address the Environmental and Conservation teams concerns. The Condition Report states the floors in numbers 29 to 33 are a mixture of solid concrete and suspended timber boards and joists. The concrete areas range in depth from 60mm to 75mm, they are uneven and do not appear to have damp proof membrane or insulation. Most of the timber floors have been removed as they had collapsed due to wet rot. A number of defects were identified as follows:

- External doors and windows to Nos 29-33 missing;
- Roof slating throughout is defective and allowing water penetration;
- Roof purlins and rafters are undersized and contain wet rot Ridge lines of No.31 and 33 have sagged – the entire roof area will have to be demolished;
- First floor joists are undersized – first floors will have to be demolished;

- In front walls, many of spandrel panel's over the doors and windows contain vertical cracks and will require repair;
- It is concluded that there is seen little structural value in these buildings and recommend that they be demolished.

Under the previous application, the views of a structural engineer within the Central Procurement Directorate of DFP were sought as well as an assessment by Building Control following the submission of the BCD Partnership Condition Report. The conclusions reached were that remedial work is required to stabilize some building elements but the buildings are currently structurally sound and carrying out remedial works will improve the longevity of the building. The building control assessment found that the existing external walls are considered to be in a reasonable condition, subject to issues relating to inadequate lintel capacity over openings. The front elevation is considered to be reasonable stable and the roof structure, whilst open to the elements in some places, is considered to be in reasonable condition and shows no evidence of major structural distress at present. Subject to the constraints of design-led demolitions and existing structural defects which will have to be remedied, it was the view of the specialist building control officer that the existing buildings is in reasonable structural condition at this time.

I note that the agent argues that the buildings have remained derelict since 2013 and therefore the structural integrity has continued to worsen. However, in the absence of any new supporting structural information to demonstrate this or any evidence to the contrary of the Central Procurement Directorate of DFP and Building Control advice, having considered this at internal group, it is considered that insufficient information has been provided to demonstrate that the buildings of No.29-33 are in a state of disrepair to warrant total demolition. It is recognized that additional cost will arise in terms of remedial works to no.29-33 as opposed to demolition, however SPPS paragraph 6.18 guiding principle is to afford special regard to the desirability of enhancing a conservation area character or appearance where an opportunity to do so exists or preserve its character or appearance where an opportunity does not arise. There is a general presumption against the grant of planning permission for development or conservation area consent from demolition of unlisted building where proposals would conflict with this principle, in my view this proposal does conflict with this principle as there is an opportunity here to preserve and enhance. This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations in the public interest. No supporting information has been submitted to consider this proposal as an exceptional circumstance.

As well as internal consultation with Environment and Conservation Team, Historic Environment Division provided consultation advice. HED (Historic Monuments) is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works. Historic Environment Division, Historic Buildings have considered the impacts of the proposal on adjacent listed buildings and consider the proposal may have an adverse impact on the listed buildings. In particular, HED have provided comment on the proposed redevelopment of the site and have concerns that some of the fenestration proposed do not integrate harmoniously with the other buildings; they are uncertain of the full impact that Blocks 2 and 3 will have on the High Street Frontage and the listed Presbyterian Church. The amendments and clarification required by HED has not been

formally requested given the principle of development is considered unacceptable regardless. However, should planning permission be granted this will need to be considered further as the proposal as it stands has not demonstrated compliance with Policy BH11 of PPS6. HED deferred to the Council Conservation Officer to comment on the impact of the proposal on the character and appearance of the Conservation Area; however it is noted they have stated they are not supportive of demolition of existing historic building stock but if this is to proceed then it is essential that any replacement buildings are appropriate.

Planning Policy Statement 7: Quality Residential Environments (PPS 7) is a retained policy document under the SPPS and provides the appropriate policy context for residential development. Policy QD 1 of PPS 7 sets out the policy framework under which applications of this nature in an urban setting should be assessed against. The proposal comprises a total of 17 apartments; 3no. Apartments will be located to the first floor along High Street and the remaining apartment units will be sited between two apartment blocks to the rear of the site. The principle of residential development on the site is considered acceptable, however it is considered the proposal as it stands fails to respect the surrounding context and is inappropriate to the character of the site in terms of layout, massing and appearance of buildings. Drawing No.03 Rev 1 shows that No.33 High Street will be demolished and replaced with a large archway feature allowing access to the rear. The agent has amended this archway slightly during the processing of the application following comments by HED. Having considered the appearance of the proposed buildings along High Street at internal group, it is considered this arch opening is incongruous and fails to respect the character of the surrounding context. It is considered that the existing group of building units together form part of the unique streetscape of High Street and as a group reflect the townscape plan layout, form, domestic scale, roof space and massing. The existing gap between No.33 and No.35 is considered an important feature in the streetscape and the proposed redevelopment scheme does not sympathetically reflect this. It is not considered that the design of the development does not draw upon the local form and detailing and as previously stated the archway proposed is not considered appropriate and has the potential to impact on local character.



The two large three storey apartment blocks to the rear at approx. 11.9m and 12.5m ridge height respectively are considered out of keeping with the setting and are considered unsympathetic with the characteristic built form of the area. As stated previously in this report; the site is located within Draperstown's designated Conservation Area. Both Mid Ulster District Council Conservation Officer and Historic Environment Division (HED) have been consulted on this application and are unsupportive of the demolition of the existing buildings on the site. Notwithstanding the demolition, it is considered the proposed replacement buildings on site will have a significant negative impact on any features of built interest within the Conservation area and particularly the adjacent listed buildings including the Presbyterian Church in terms of scale, massing and design. It is considered the application, as it stands, does not propose a quality design concept that draws upon the positive aspects of the character and appearance of the surrounding area. It is considered the proposal fails to meet Criteria a, b and g of Policy QD1 in this regard.

The proposal site is situated within the settlement limits of Draperstown thus it is considered there is easy accessibility to local neighbourhood facilities. It is not considered the proposed development would significantly intensify or place unnecessary demands on the existing neighbourhood provisions and amenities within the area. I have no significant concerns in terms of crime or health and safety with respect the proposed design. Drawing 02 Rev 1 indicates some degree of open space/amenity space to the rear of the building. It is considered this is an acceptable provision of communal space for residents in this instance given the town centre location and the public open space and walkway located in close proximity to the west on Plantin Park, as well as Derrynoid Forest and Backrow Playing Fields. It is not considered that the proposal would give rise to unacceptable adverse effect on existing or proposed properties in terms of overlooking, loss of light or overshadowing. Environmental Health were consulted and have advised as the site is in close proximity to industrial premises to the rear of the development which can be associated with high levels of noise due to the operation of plant and machinery, deliveries, and vehicle movements, as well as potential for noise impact from commercial operations and a public house (currently closed and with no entertainment license) to the east. EHD therefore requested a noise impact assessment. Given the principle of development is considered unacceptable, it was considered unreasonable to ask the applicant to go the expense of completing a noise impact assessment at this stage therefore this has not been formally requested. However should Members considered planning approval should be granted it will be necessary to address this matter as it has not been demonstrated the proposed residential development to the rear would be compatible with surrounding land uses and is therefore contrary to Criteria h of Policy QD1. Paragraph 6.90 of the SPPS states "incompatibility could arise when new residential development is approved in proximity to an existing economic development use that would be likely to cause nuisance, for example through noise, pollution or traffic disturbance".

The proposal is within settlement limits and convenient to public transport. It is noted that a footpath is located adjacent to the application site which will support walking and cycling. DFI Roads were consulted and have concerns with the proposed access arrangements and parking provision. DFI Roads have advised the access arrangements as proposed will have a significant impact on the existing street frontage reducing the number of available on-street parking. DFI Roads requested details on mitigation on loss of parking, impact on tree kerbed islands, street furniture, signage etc. The

proposed access will remain private and will not be considered for adoption into the public road network. In terms of parking, the proposal includes 22 spaces however in line with Parking Standards guidance 33 parking spaces are required and DfI Roads consider the access over street frontage could result in the loss of two street frontage parking spaces. The parking shortfall is considered significant and contrary to both Criteria f of PPS7 and Policy AMP7 of PPS 3 which states development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements

#### Other Considerations

NI Water were consulted to ensure there is available capacity for receiving waste water treatment works. NI Water have advised there is available capacity for waste water treatment facilities at Draperstown however have advised a high level assessment has indicated potential network capacity issues therefore have recommended connections to the public sewage and surface water system are curtailed. It is considered should planning permission be forthcoming, it will be necessary to attach a pre-commencement condition that no development should take place on site until the developer demonstrates an acceptable method of sewage disposal agreed with NI Water and provided in writing to Mid Ulster District Council.

**Neighbour Notification Checked**

Yes

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

There is no doubt that it would be of great benefit to Draperstown to see this part of High Street developed and brought back to life, however this must be done in a manner which is appropriate to the conservation area and prevailing policies. It is considered the proposal as it stands is contrary to policy as detailed below.

#### **Reasons for Refusal:**

1. The proposal is contrary to the Magherafelt Area Plan 2015, the Strategic Planning Policy Statement, Draperstown Conservation Area Guide and Policy BH14 of Planning Policy Statement 6 Planning, Archaeology and the Built Heritage in that the proposal will result in the total demolition of buildings within Draperstown Conservation Area which make a material contribution to the character and appearance of the area.
2. The proposal is contrary to the Strategic Planning Policy Statement and Policy QD1 of Planning Policy Statement 7 Quality Residential Environments (criteria a, b, f, g, h) in that the proposal, if approved, fails to respect the surrounding context and features of archaeological and built heritage in terms of design, massing and layout; adequate and appropriate provision has not been made for parking; and insufficient information has been provided to demonstrate there will be no unacceptable adverse effect on proposed properties in terms of noise or other disturbance.
3. The proposal is contrary to the Strategic Planning Policy Statement and Policy BH11 of Planning Policy Statement 6 Planning, Archaeology and the Built

Heritage in that insufficient information has been provided to demonstrate that the proposal will not adversely affect the setting of a listed building.

4. The proposal is contrary to Policy AMP 7 of PPS3, Access, Movement and Parking in that it has not been demonstrated that adequate provision for car parking has been provided to serve the proposal.

**Signature(s)**

**Date:**





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1376/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for a Dwelling and Domestic Garage based on Policy CTY 10 (Dwelling on a Farm) (Amended Plans)	<b>Location:</b> 50m North of 81 Desertmartin Road Moneyamore
<b>Referral Route:</b>  2no. Objections received	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Philip Hughes 9 Cove Close Ballyronan BT45 7RF	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge
<b>Executive Summary:</b> Proposal complies with relevant prevailing planning policy. 2No. objection letter received and considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Characteristics of the Site and Area

The site is located in the rural countryside outside any settlement limits as depicted within the Magherafelt Area Plan 2015. The site is located approximately 3km NE of the defined settlement limits of Magherafelt. The proposal site comprises the majority of a large agricultural field. The field is accessed via an existing agricultural field, however the access laneway which serves No.81 Desertmartin Road and the associated farm holding is included within the red line of the site. The topography of the field is undulating gradually rising to the north. The surrounding area is rural in character however the site is located adjacent to the busy A29 Desertmartin Road. The rear boundary and southern boundary of the field is bound by mature trees and hedging. The northern boundary is partially defined by trees and partially undefined given the site is a cut out portion of a larger field.

**Description of Proposal**

This is an outline planning application for a dwelling and garage located on lands approximately 50m North of 81 Desertmartin Road, Moneymore.

The dwelling is being applied for as a gap site for infill development, an exception under Planning Policy Statement 21, Policy CTY 8 Ribbon Development.

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

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

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

Regional Development Strategy 2030  
Strategic Planning Policy Statement for Northern Ireland  
Magherafelt Area Plan 2015  
PPS 2: Planning and Natural Heritage  
PPS 3: Access, Movement and Parking  
PPS 21: Sustainable Development in the Countryside

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

**Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2no. Objection letters were received which outline similar concerns, the details of which are outlined and considered below.

- Concerned as this agricultural land, as well as sheds on the farm holding, are currently rented on a five year term basis to a farmer and large agricultural vehicles bypass the yard/lane and utilise the application site to access the A29 road. Traffic utilising the lane is a concern with small children and unattended dogs;
- The proposal would deprive the owner/occupier of No.81 Nancy Hughes of a rental income, the applicant did not seek permission from the owner/occupier and the applicant has been advised by the objector not to divide agricultural land for housing/sites. The objector advises the applicant has been offered a site at a nearby location and the opportunity to rent or purchase a bungalow and advises permission would not give to build on land at No.81 Desertmartin Road;

- Siting, loss of privacy and noise, pollution, disruption to water and electricity, nuisance during construction are of concern.

It is unclear whether the objectors concerns with respect vehicle movements relate to the existing agricultural vehicles utilising the rented farm buildings/land or relate to the traffic resulting from the proposed development. In considering the proposed development, it is considered the addition of one dwelling unit on the application site, would not significantly intensify traffic using the laneway. With respect the comments regarding rental income, dividing agricultural land and alternative sites/housing, these matters fall outside the remit of this planning application and are civil matters between the relevant parties. It was noted the objector advised permission would not be given to build on the land therefore clarification was sought from the agent on the land ownership however it should be noted this is also a civil matter. During the processing of the planning application, the agent requested the amendment of the applicants name and address from Brian Hughes to Philip Hughes. The agent has advised that the farm land, sheds and dwellings were the applicant's home and where his mother still lives. The agent has amended the site location plan clearly showing all land under the applicant Philip Hughes control and confirmed that the applicant Philip Hughes uses the sheds on the farm holding in conjunction with his farm business and that he owns all the land within the application site. The agent has amended Certificate A accordingly following the change in applicant.

This is an outline planning application, therefore the exact siting, scale and design is not available or to be considered. Should a reserved matters or full planning application be forthcoming, the siting and design will be carefully considered at this stage to ensure no detrimental impact to residential amenity. In considering the application site, I consider a dwelling could be accommodated on the site without adverse impacts on amenity to the adjacent dwelling. Whilst it is noted that the construction phase has the potential to give rise to some level of disturbance, it is considered as this is for a short term period only it would not warrant the refusal of planning permission. It is considered that these concerns are a matter to be discussed between the land owners, outside the remit of planning. Should there be an excessive pollution or noise disturbance, this should be reported to Mid Ulster Council Environmental Health to investigate.

### **History on Site**

No relevant planning history.

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

Magherafelt Area Plan 2015 – the site lies in the rural countryside outside any designated settlement. The application site is located within Moneymore Deltas incorporating Quilly Glen and Reubens Glen Site of Local Nature Conservation Importance (SLNCI). Designation COU 3 Sites of Local Nature Conservation Importance of the Area Plan states sites have been identified on the basis of their flora, fauna or earth science interest. Sites of Local Nature Conservation Importance are designated in accordance with PPS 2 – Planning and Nature Conservation. PPS2 Policy NH 4 Sites of Nature Conservation Importance states planning permission will only be granted for a development proposal that is not likely to have a significant adverse impact on a Local Nature Reserve; or a Wildlife Refuge. Given the nature of the proposal and the observations of the date of the site inspection, I do not consider the proposal would have significant adverse impacts on natural conservation interests to warrant refusal.

The Strategic Planning Policy Statement for Northern Ireland – advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. The current proposal falls under one of these instances, the development of a dwelling on a farm in accordance with Policy CTY10 – Dwellings on Farms.

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

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- 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 groups(s)

With respect to (a) DAERA have confirmed the business ID provided has been in existence for more than 6 years however the farm business has not claimed payments and the proposed site is located on land associated with another farm business. Following internal discussions, it has been accepted given the land appears to let out in con-acre and on the date of the site inspection the land appeared to be maintained in good agricultural condition, it is considered this criteria has been met and the farm business is established and currently active.

With respect to (b) having carried out a check of the land associated with the farm maps provided, as well as a search of the Farm Business ID provided, no records have been identified which indicate that any dwellings or development opportunities out with the settlement limits have been sold off from the farm holding within 10 years of the date of this application.

With respect to (c), the application site is sited adjacent to the exiting farm dwelling and outbuildings. From a review of the farm maps, these are the only buildings on the farm land. It is noted the application site is large and it is considered appropriate to restrict the siting and curtilage of the dwelling to the eastern portion of the site which will provide integration and ensure clustering and visual linkage with the existing farm holding and buildings. The proposal will utilise the existing laneway and overall it is considered the proposal satisfies this criterion of CTY 10 policy.

As this is an outline application the details of the siting, size, scale and design of the dwelling will be reserved for further consideration under any subsequent reserved matters application. I am content that a dwelling and garage could successfully integrate into the surrounding landscape without further eroding the rural character of the area. The proposed development respects the existing pattern of development in the immediate vicinity and I do not consider the additional of a detached dwelling and garage on the site will detrimentally alter the rural character of this area. As such I consider the proposal complies with Policy CTY13 and CTY14 of PPS21.

Policy CTY13 states that planning permission will be granted of a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a design, size and scale that is comparable to existing dwellings in the locality. The site has mature boundary vegetation to the east which will assist integration and enclosure. It is considered appropriate to condition that the retention of existing vegetation and additional planting will also be required for sufficient integration and this can be conditioned appropriately. It is considered a siting condition to the rear of an existing telegraph pole will provide the greatest integration.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. The proposed development respects the existing pattern of development in the immediate vicinity and I do not consider the additional of a single dwelling on the site will detrimentally alter the rural character of this area.

### PPS 3: Access, Movement and Parking

The existing lane way is onto a Protected Route A29 Desertmartin Road. DfI Roads have been consulted and have offered a refusal reason under Policy AMP3 as the development, if permitted, would result in the intensification of use of an existing access onto a Protected Route, thereby prejudicing the free flow of traffic and conditions of general safety. Annex 1 of PPS21 "Consequential amendment to Policy AMP 3 of PPS 3 Access, Movement and Parking" provides exceptions for a development proposal involving access onto a Protected Route *(b) where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.*" It has been demonstrated above that the proposal meets the criteria set out in Policy CTY 10. The proposal is making use of an existing vehicular access point onto the protected route and from a review of the site location plan; it is evident that access cannot be reasonably obtained from an adjacent minor road. Therefore, intensification onto this protected route is acceptable in this instance given the exception built into policy and it is my opinion that the proposal does not conflict with Policy AMP 3 and this refusal reason could not be sustained. It is noted that DFI Roads have advised that the existing access is compliant with PPS3 AMP2 in terms of sight lines.

### Additional considerations

In addition to checks on the planning portal, the Natural and Historic Environment map viewers available online have been checked and identified no built heritage assets

interests of significance on site. It was identified a small portion of the central portion of the field is within the floodplain as defined within the Department for Infrastructure Strategic Flood Maps. Given the minimal portion of the site within floodplain and that a siting condition will be attached to a forthcoming approval avoiding this area, it was not considered necessary to consult DfI Rivers in this instance.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for approval subject to the conditions outlined below.

**Conditions:**

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

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

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

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

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

Reason: To ensure the dwelling integrates into the landform and surrounding countryside

4. The existing vegetation along the northern, south-eastern and south-western boundaries of the site shall be permanently retained at a minimum height of 1.2 metres and no looping, felling or removal shall be carried out without the prior written approval of the Council unless necessary to prevent danger to the public in which case a full explanation shall be given to Council in writing within one week of work being carried out.

Reason: To ensure the development integrates into the countryside.

5. No development shall take place until a landscaping scheme has been submitted to and approved by the Council showing the location, numbers, species and sizes of trees and shrubs to be planted. The scheme of planting as finally approved shall be carried out during the first planting season after the commencement of the development.

Reason: In the interest of visual amenity and to ensure the provision, establishment and maintenance of a high standard of landscape.

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

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

7. The curtilage of the proposal hereby approved shall be restricted to the area shaded yellow on the approved Drawing No.01 Rev 1 date stamped 14<sup>th</sup> January 2022 and the dwelling and garage should be sited within this area.

Reason: In the interest of visual amenity and to ensure that the development integrates into the rural landscape.

#### Informatives

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1531/O	<b>Target Date:</b>
<b>Proposal:</b> Dwelling & domestic garage based on Policy CTY 10 (dwelling on a farm)	<b>Location:</b> Lands 60m SW of 105 Ruskey Road The Loup Coagh
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 10, 14 and 15 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Columbo McVey 121 Ruskey Road Ballymaguigan Coagh BT45 7TS	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 10, 14 and 15 of PPS 21.

### Characteristics of the Site and Area

The proposed site is located approximately 40m south of the development limits of The Loup, as such the site is located in the open countryside as per the Cookstown Area Plan 2010. The site is currently accessed via an existing field gate but the application intends to create a new access for the site onto the public road. I note that the red line covers a large portion of an agricultural field. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties with the north of the site being dominated by the settlement of the Loup.

#### Representations

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

## Description of Proposal

This is an outline application for a proposed dwelling & domestic garage based on Policy CTY 10 (dwelling on a farm), the site is located Lands 60m SW of 105 Ruskey Road, The Loup, Coagh.

## Planning Assessment of Policy and Other Material Considerations

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Cookstown Area Plan 2010  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 10 - Dwellings on the Farm

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane. Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response they noted the farm business was only established in 2017 and that no claims have been made on the farm. I note no additional evidence has been provided to show activity. From this, I am not content that there is an active farm business that has been established for more than 6 years.

With respect to (b), I note that there is only one field included in the farm map, from review of this and the farm business it does not appear that any farm sites have been attained nor any other development opportunities sold off.

With respect to (c), despite the issues over the farm business, I note that the applicant lives in the settlement of the Loup with the only building on the farm is a small shelter. I must note that this shelter has no permission and there is no evidence that it has been in place for over 5 years. With this in mind, a dwelling is being located on the only farm lands available to it which is acceptable on balance. The policy states that where practicable to use an existing laneway for access, I note that the intention is to create a new access onto public road which would be the only suitable option. Given this I hold the opinion the application has failed under this policy.

I note that no other policy consideration was put forward and upon review of each I hold the view that they would not meet any of the relevant policies under CTY 1.

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

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. Given the proximity to the development limits of The Loup I would hold the view that a dwelling in this location has the capacity to mar the distinction between the countryside and the settlement. As such would erode the rural character of the area as any new dwelling would nearly read as part of the settlement as such.

CTY 15 is relevant in this application given the proximity of the site to the development limits of The Loup, wherein this is seen as an important visual break between the settlement and the countryside where a dwelling in this location would remove this. As such I hold the view that this application fails under CTY 15.

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

PPS 3 - Access, Movement and Parking;

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

I have no ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the farm business is currently active and has been established for at least six years.

3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that if permitted would result in a detrimental change to the rural character of the countryside.

4. The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the development would if permitted mar the distinction between the defined settlement limit of The Loup and the surrounding countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	20th October 2021
<b>Date First Advertised</b>	2nd November 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 1 Rogully Road Moneymore Londonderry The Owner/Occupier, 105 Ruskey Road Coagh Londonderry The Owner/Occupier, 105a Ruskey Road, Coagh, Londonderry, BT45 7TS	
<b>Date of Last Neighbour Notification</b>	11th November 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<p>Ref ID: LA09/2021/1531/O            Proposal: Dwelling &amp; domestic garage based on Policy CTY 10 (dwelling on a farm)            Address: Lands 60m SW of 105 Ruskey Road, Ballymaguigan, Coagh,            Decision:            Decision Date:</p> <p>Ref ID: I/2011/0137/F            Proposal: Change of House Type to Previously approved Application I/2010/0133 to comprise of Storey and a half Farm Dwelling and Single Storey Garage            Address: 140 M North East of Rogully Road, Moneymore, BT45 7TR,            Decision:            Decision Date: 11.05.2011</p> <p>Ref ID: I/2010/0133/F            Proposal: New Farm Dwelling to comprise of storey and half dwelling            Address: 140m North East of 5 Rogully Road, Moneymore            Decision:            Decision Date: 26.01.2011</p> <p>Ref ID: I/1975/0402            Proposal: ERECTION OF FARMWORKERS BUNGALOW            Address: BALLYROGULLY, LOUP, MONEYMORE            Decision:            Decision Date:</p>	

Ref ID: LA09/2021/1450/F  
Proposal: Proposed dwelling and garage  
Address: Site ay 100m N.W. of 4 Rogully Road, Magherafelt,  
Decision:  
Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1533/F	<b>Target Date:</b>
<b>Proposal:</b> Retention of additional balance tank and associated site works at an existing effluent treatment plant at existing cheese processing factory (amended description)	<b>Location:</b> Lands at 141 Moneymore Road Dunman Bridge Cookstown
<b>Referral Route:</b> 3no. Objection received	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Dale Farm Ltd 141 Moneymore Road Dunman Bridge Cookstown	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
<b>Signature(s):</b>	



## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Statutory	Historic Environment Division	Content
Non Statutory	Environmental Health	Content
Statutory	Rivers Agency	Advice
Statutory	NI Water – Strategic Applications	Substantive Response

#### Representations:

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

#### Characteristics of the Site and Area

The site is in a rural location, located approx. 170m south of the Dale Farm complex, 139 Moneymore Road, Cookstown. The site encompasses a portion of an agricultural field and an existing laneway and area of hard-core. The site is accessed via an existing concrete laneway which connects to Dale Farm and is used to access the Sewage treatment works immediately to the south and the existing solar farm approved under LA09/16/0885/F and located in close proximity to the SE. The ground level is relatively flat however rises beyond the application site to the SE. There are mature trees beyond the application site which provide a backdrop to assist with integration. Lissan Water runs alongside the eastern boundary. Cookstown is located approximately 1.4km to the west of the site.

**Description of Proposal**

This planning application seeks retrospective planning permission for the retention of an additional balance tank and associated site works at an existing effluent treatment plant at existing cheese processing factory located at lands associated with 141 Moneymore Road, Dunman Bridge, Cookstown.

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

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

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

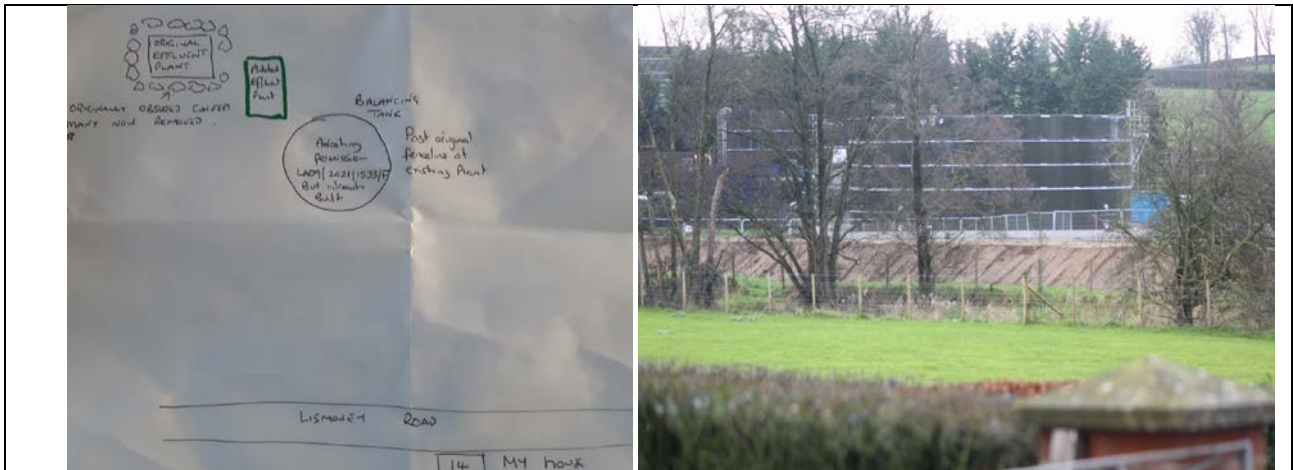
- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development
- Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage
- Planning Policy Statement 15 – Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

**Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 3 objection letter were received all from the owner occupier of No.14 Lismoney Road. The concerns outlined in the letters are summarised below, as well as the two images that were attached:

- Objector advises he has no doubt permission will be approved but requests any further development is screened by trees or landscaping to soften the visual impact and obscure excessive lighting. Advises the plant was obscured by conifers however due to expansion over the past few years it has moved out of a screened area and is located directly opposite his bungalow and an eyesore during the day and night.
- Advises the effluent tank has already been installed and questions the planning process. Concerns over the size of the tank and odour. Queries how foul odour in the summer months will be managed as odour is already present from the smaller further away tank.



In response to the comments raised by the objector; it is noted that the existing sewage treatment works have been in place at this location for a significant period of time and this proposal is for an additional balance tank and associated site works. It is noted that trees line the Lissan Water which can be seen in the objectors photos above which provide some degree of screening. However, having considered the objectors comments with respect landscaping and the siting of the tank and given the countryside location and in the interests of visual amenity, it is considered a suitably worded condition could be attached to any forthcoming approval requiring planting along the eastern boundary to reduce visual impact and allow greater integration.

Clarification was requested from the agent regarding the objector's comments that the tank had already been installed and the agent subsequently amended the description for the proposal and this was re-advertised. Current planning legislation allows for retrospective applications which the Council has an obligation to process. Environmental Health were consulted on this application and have acknowledged that the objector has raised issues in relation to odour. EHD have advised the premises is regulated under the IPC regime (which considers odour emissions) by the Northern Ireland Environment Agency. NIEA have provided consultation response advising they are content with the proposal subject to the existing PPC permit being varied and they have advised. NIEA advised the Inspectorate is in the process of processing the sites PPC variation to include additional land associated with an extension to the effluent treatment plant and this proposed cheese plant extension. NIEA licence the factory through a PPC permit which is separate function and outside the remit of planning, the PPC Permit is responsible for regulating air quality and odour from the complex.

### History on Site

LA09/2021/1731/F - Extension to the existing cheese plant & alterations to roof profile of existing building - Lands at 141 Moneymore Road, Dunman Bridge, Cookstown – Under Consideration

LA09/2021/0685/F - Proposed whey protein concentrate (WPC) processing, storage and dispatch project at existing cheese processing factory including 2 chiller units, 5No. 100000L silos 2No. 150000L silos within a 3m high bund area and associated equipment and site works including acoustic fencing - Lands at 141 Moneymore Road, Dunman Bridge, Cookstown – Under Consideration

LA09/2018/0016/F - Proposed upgrade of existing drying facilities within existing cheese processing factory - Permission Granted 30/01/19

LA09/2017/1330/DC - Discharge of condition 5 of Planning Permission

LA09/2015/0885/F- Solar Farm adjacent to Dale Farm Complex, Cookstown- Condition Discharged

LA09/2016/1816/F - Extension of an existing vehicular lane to provide access to the approved Dale Farm Solar Farm (LA09/2015/0885/F) - Permission Granted 13/4/17

LA09/2016/1650/F - Extension of the existing Dale Farm dairy and factory facility at Dunman Bridge, Moneymore Road to provide; additional cold storage warehousing; reconfiguration of dispatch bay; new palletising line; and relocation of powder store (Approved under I/2013/0124/F) - Permission Granted 10/07/17

LA09/2015/0885/F - Installation and operation of a 4.9MWp solar farm and associated infrastructure including photovoltaic panels, mounting frames, 3 no. control rooms, fencing pole mounted security cameras, underground and over ground electricity cables -Approx. 350m south of the Dale Farm complex, 139 Moneymore Road, Cookstown- Permission Granted 5/01/16

I/2013/0362/F - Proposed extension to existing factory including ground floor hygiene facilities and first floor office - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 25/03/14

I/2013/0200/F - Retention of 5 no. tanks to the front of the main factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 12/06/14

I/2013/0124/F - Proposed extension and alterations to existing powder store and dispatch at existing factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 11/09/13

I/2012/0068/F - Proposed 2 storey extension to existing factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 08/06/12

I/2012/0439/F - Proposed storage tanks serving existing milk processing factory- 139 Moneymore Road, Dunman, Cookstown - Permission Granted 21/01/13

I/2012/0376/A - 1 no. wall mounted illuminated company logo in substitution of previously approved planning application I/2011/0399/A - Permission Refused 19/04/13

I/2011/0399/A - 1 no wall mounted non illuminated company logo - Dale Farm Ltd, 139 Moneymore Road, Dunman, Cookstown - Permission Granted 06/04/12

I/2007/0102/F - Instalation of 4 new stainless steel tanks- 139 Moneymore Road, Dunman, Cookstown - Permission Granted 18/06/07

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

Cookstown Area Plan 2010 - the site lies in the rural countryside outside any designated settlement with no other specific designations or zonings.

The Strategic Planning Policy Statement for Northern Ireland- advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained. The Strategic Planning Policy Statement outlines the aim to providing sustainable development and with respect to that should have regard to the development plan and any other material considerations. The general planning principles with respect to this proposal have been complied with.

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside - PPS21 is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. Industry and business uses will be assessed in the countryside in accordance with PPS 4. Policy PED 2 refers to proposals that will be acceptable in the countryside. The expansion of an established economic development use will be permitted in accordance with the provisions of policy PED 3.

PED 3 Expansion of an Established Economic Development Use in the Countryside - PED 3 states that the expansion of an established economic development use in the countryside will be permitted where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. I first note that this is not a major expansion, the proposal seeks the retention of an additional balance tank and associated site works. The balance tank is located on a 50m<sup>2</sup> concrete base and has a height of approx. 7.1metres. Given the existing effluent treatment plant immediately to the south, I consider the proposal will respect the existing building and is acceptable on balance in terms of scale, design and use of materials.

#### PED 9 General Criteria for Economic Development

With regards to this policy, it states that a proposal for economic development use, in addition to the other policy provisions, will be required to meet all the following criteria:

*(a) it is compatible with surrounding land uses;*

The proposed balance tanks is sited adjacent to existing treatment works therefore I am content that it is still compatible with surrounding land uses.

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

Matters relating to noise, odour etc. is the responsibility of the Industrial Pollution and Radio Chemical Inspectorate which is separate to Planning. Consultation with both NIEA and Environmental Health has been carried out and no objections have been raised. In light of this, I am of the opinion that the proposed works are unlikely to give to any adverse impacts on nearby residents.

*(c) it does not adversely affect features of the natural or built heritage;*

SES have informally advised no viable pathways have been identified whereby the proposal could have a negative impact on a European site, stating there is an adequate agricultural buffer between the site and Lissan Water. Historic Environment Division were consulted and have advised on the basis of the information provided they are content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

*(d) it is not located in an area at flood risk and will not cause or exacerbate flooding;*  
Rivers Agency identified that portions of the site appears to lie within an area of predicted pluvial flooding, however acknowledges a Drainage Assessment is not required by the policy. Rivers Agency's recommendations to the developer regarding flood risk will be added as an informative to any forthcoming approval.

*(e) it does not create a noise nuisance;*

Environmental Health were consulted on the development proposed and advised that noise from this proposal is more than 10 dB below the background noise level for the locality therefore noise from this proposal will not contribute to the overall noise from the existing factory. Having considered the proposal and EHD comments, I am content that the proposed development will not create any a noise nuisance.

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

The proposal for an additional tank will be used to process effluent from the existing cheese factory. No consultees have raised any concerns with respect emissions or effluent.

*(g) the existing road network can safely handle any extra vehicular traffic the proposal will generate or suitable developer led improvements are proposed to overcome any road problems identified;*

There will be no additional staff or traffic movements as indicated in the P1 Form, therefore there should be no impact on the existing road network.

*(h) adequate access arrangements, parking and manoeuvring areas are provided;*

Access arrangements remain unchanged and the application has indicated there will be no increase of visitors to the site.

*(i) a movement pattern is provided that, insofar as possible, supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way and provides adequate and convenient access to public transport;*

Existing arrangements are unaffected.

*(j) the site layout, building design, associated infrastructure and landscaping arrangements are of high quality and assist the promotion of sustainability and biodiversity;*

It is considered given the nature and use of the site and the development proposed, the layout, design and landscaping are acceptable in this instance.

*(k) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view;*

The proposal will remove a portion of existing fencing and Drawing 02 indicates new fencing to match existing will be erected. It is considered appropriate to condition planting along the NE and SE boundary fencing to assist with screening.

*(l) is designed to deter crime and promote personal safety; and*

It is not considered the design will give rise to crime and promotes personal safety.

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

It is noted that existing trees along Lissan Water provide a backdrop to assist with integration. As stated previously, a suitably worded condition will be attached to any forthcoming approval requiring planting which will ensure satisfactory integration into the landscape.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered the prevailing planning policy and all material considerations outlined above, I am of the opinion that this application accords with the relevant policy tests and therefore is recommended for approval subject to the following conditions.

**Conditions**

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

Reason: This is a retrospective application.

2. During the first available planting season following the date of the permission hereby granted, trees shall be planted along the northeast and southeast boundaries of the site as marked in green on drawing No 02 bearing the date stamp 20/10/2021. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree, shrub or hedge of the same species and size as that originally planted shall be planted at the same place, unless the Council gives its written consent to any variation.

Reason: To ensure the development integrates into the countryside.

**Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The applicant's attention is drawn to Rivers Agency consultation response dated 4<sup>th</sup> January 2022.

5. The applicant's attention is drawn to NI Water consultation response dated 29<sup>th</sup> November 2021.
6. The applicant's attention is drawn to NI Water consultation response dated 9<sup>th</sup> March 2022.

**Signature(s)**

**Date:**





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1540/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective application for part use of a domestic storage shed for the sale of general builder's merchandise.	<b>Location:</b> Approx. 13m NW of 5 Jacksons Drive Gulladuff
<b>Referral Route:</b> <ul style="list-style-type: none"> <li>• Recommended refusal</li> </ul>	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> C & C Supplies 5 Jacksons Drive Gulladuff Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road Toomebridge
<b>Executive Summary:</b> Proposal considered against material considerations and prevailing planning policy and is considered to be incompatible with surrounding land uses. No letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Standing Advice
Statutory	Historic Environment Division	Content
Non Statutory	Environmental Health MUDC	Additional Info Requested

**Representations:**

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

**Characteristics of the Site and Area**

The application is located within the designated settlement limits of Gulladuff as identified in the Magherafelt Area Plan 2015. The site comprises an existing large industrial style shed located within an established housing development known as

Jacksons Drive, Gulladuff. The site utilises a private laneway which serves No.5, 6 and 8 Jackson's Drive. The property of No.5 to the SE is within the applicant's control, however the site and the garden of No.5 are separated by a wall with metal railing. It is noted that the subject building was approved as a domestic shed in February 2021. The north and eastern boundaries are defined by post and wire fencing. The surrounding character is residential in character.

### **Description of Proposal**

This planning application seeks retrospective permission for the part use of a domestic storage shed (approved under planning reference LA09/2019/1157/F) for the sale of general builders merchandise shed located approx. 13m NW of 5 Jacksons Drive, Gulladuff.

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

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

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

Regional Development Strategy 2030  
 Strategic Planning Policy Statement for Northern Ireland  
 Magherafelt Area Plan 2015  
 Planning Policy Statement 3: Access, Movement and Parking  
 Planning Policy Statement 4: Planning and Economic Development  
 Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Representations**

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

### **History on Site**

LA09/2019/1157/F – Retrospective domestic storage shed with extension of curtilage - 5 Jacksons Drive, Gulladuff, Magherafelt – Permission Granted 09/02/21

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

Magherafelt Area Plan 2015 – the site lies within the settlement limit of Gulladuff with no other specific designations or zonings.

Magherafelt Area Plan 2010 – The proposal is located within the development limits of the small settlement of Gulladuff with no specific designation or zoning. Plan Policy SETT 2 Development within Development Settlement Limits states favourable consideration will be given to development proposals within settlement limits provided that the proposal:

- is sensitive to the size and character of the settlement in terms of scale, form, design and use of materials;
- is, where applicable, in accordance with any key site requirements contained in Part 4 of the Plan.

It is considered the partial change of use to a builder's merchant would not be appropriate at this location. Whilst the Area Plan does not preclude the use proposed within the settlement, the surrounding area is residential in character and this is not considered a compatible use and has the potential to give rise to detrimental impacts on neighbouring amenity. The proposal site is not subject to any key site requirements.

The Strategic Planning Policy Statement for Northern Ireland introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS.

This application is retrospective and seeks permission for the part change of use from domestic storage shed to general builder's merchants. The subject building was retrospectively granted planning permission on 09/02/21, however Condition 3 of this permission specifically restricted the use to private domestic and did not confer approval on the carrying out of trade or business there from in order to prevent an unacceptable use on the site and to protect the amenity of neighbouring properties. The use for sales of building supplies falls within Class A1 Retailing as set out in the Planning (Use Classes) Order (NI) 2015. Drawing 03 indicates that the shed will be divided with domestic use to the right and the area for builders merchandise to the left comprising a floor area of approx. 75 square metres. It was noted on the date of the site inspection that there did not appear to be any physical portioning within the building on that date.

The SPPS has superseded PPS5 in respect of Retailing. It states that all policies and proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment. In doing so a sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date LDP. Gulladuff is a small settlement and therefore does not have a designated town centre. However it is noted, a small local shop and pub are located 0.2km east of the site at the roundabout where Quarry Road and Gulladuff Road meet. Paragraph 6.292 states In order to ensure high quality and otherwise satisfactory forms of development all applications for retail development or main town centre type uses will also be assessed in accordance with normal planning criteria including transportation and access arrangements, design, environmental and amenity impacts. The application site is located within the housing development Jacksons Drive and abuts Hugh's Villas. The surrounding area is densely populated and the site is surrounded by residential uses the closest of which is 6 metres to the

boundary. It is considered, the proposed use as a builder's merchant is incompatible with the established surrounding land use. No evidence has been provided to argue why this proposal is necessary in this location. Para 2.3 of SPPS states the proposal would unacceptably affect amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured. Environmental Health (EH) were consulted on this application and advised given the proximity of residential dwellings to the proposed development, the applicant must undertake an assessment of the noise impact including any proposed mitigation measures with the expectation However, given the principle of development is not considered acceptable and does not comply with any policy criteria, it was not considered reasonable to ask the applicant to go to the expense of commissioning a NIA therefore this has not been formally requested to date. However should members consider granting planning permission, this matter would need to be considered further. DfI Roads were consulted and advised that the commercial sales unit is located at the end of a private laneway off Jacksons Drive which is not bonded or adopted by DfI Roads. DfI Roads offered no objections to the proposal based on the information submitted on Question 25 of the P1 form regarding traffic to the site. The P1 form states there are 9 vehicles to the site each day of which 6 would be customers, in my opinion this appears to be quite a conservative estimate given the retail use. Nevertheless DfI Roads required an amended drawing showing the necessary visibility splays in both directions where the private lane meets the public road. This amended drawing has not been submitted and was not formally requested given the principle of development is not considered acceptable. Should members consider the proposal to be acceptable and permission be granted it will be necessary to address this matter to ensure a safe access onto the public road.

The proposals acceptability also falls to be considered against Policy DES 2 of the PSRNI detailed below. Policy DES 2 Townscape of PSRNI requires development proposals in towns to make a positive contribution to townscape and be sensitive to the character of the area surrounding the site in terms of design, scale and use of materials. The existing land use of the site is domestic associated with the residential property adjacent No.5. As previously stated, use of the site as a builder's merchants business is considered to be unacceptable in this location having the potential for negative impacts on the surrounding residential character. Policy DES2 states new development should provide reasonable standards of amenity both in the environment which the development creates and in terms of the effect it has on neighbouring properties. Where there is an inherent incompatibility with neighbouring developments, or where remedial action cannot be made effective, applications will normally be refused. As stated above, the Environmental Health Department have requested a Noise Impact Assessment to ensure no unacceptable noise levels however this has not been requested as it is considered unfair to ask the applicant to go to this expense when the proposed change of use is considered unacceptable regardless. There are a number of residential properties in close proximity the closest of which is No.8a at approximately 6m from the northern boundary. In terms of amenity, it is considered a building supply store at this location has the potential to result in nuisance including noise and loss of privacy from visitors coming and going from the site. The design of the subject building has already been considered acceptable in the granting of the previous planning permission LA09/2020/1157/F. It is noted this previous approval had detailed that the shed would be finished white to assist with integration, this has not been done and the building remains grey cement finish. This planning application relates to the use of the shed and there are

no external changes to the shed approved. The site is located within an Archaeological Site and Monument zoning requiring consultation with Historic Environment Division (HED). HED has assessed the application and on the basis of the information provided is content that the proposal is satisfactory to SPPS and PPS 6 archaeological policy requirements.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal:**

1. The proposal is contrary to Magherafelt Area Plan 2015, the Strategic Planning Policy Statement and Policy DES 2 of a Planning Strategy for Rural Northern Ireland in that the proposal is incompatible with surrounding land uses; and insufficient information has been provided to demonstrate it will not harm residential amenity or result in a noise nuisance.
2. The proposal is contrary to the Strategic Planning Policy Statement and PPS3, Access, Movement, and Parking in that insufficient information has been provided to demonstrate that a safe access can be achieved onto the public road.

**Signature(s)**


**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1566/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm dwelling & garage.	<b>Location:</b> Approx. 65m North of 19 Moneygaragh Road Rock Dungannon
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and 10 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mrs Patricia Toner 19 Moneygarvagh Road Rock Dungannon BT70 3HU	<b>Agent Name and Address:</b> CMI Planners Ltd 38b Airfield Road The Creagh Toomebridge BT41 3SG
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	



<b>Case Officer Report</b>		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
Non Statutory	DAERA - Omagh	Considered - No Comment Necessary
Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
To Committee - Refusal - Contrary to CTY 1 and 10 of PPS 21.		
<b>Characteristics of the Site and Area</b>		
<p>The proposed site is located approximately 1.5km west of the development limits of The Rock, as such the site is located in the open countryside as per the Cookstown Area Plan 2010. The site is currently accessed via an existing field gate but the application intends to create a new access for the site onto the public road. I note that the red line covers a portion of much larger undulating agricultural field. I note that the applicant lives directly south of the proposed site wherein a small shed appears to be the only other building on the farm. The surrounding and immediate area are dominated by agricultural land uses with a scattering of residential properties.</p> <p>Representations Two neighbour notifications were sent out however no representations were received.</p>		



## Description of Proposal

This is an outline application for a proposed farm dwelling & garage, the site is located approx. 65m North of 19 Moneygaragh Road Rock Dungannon.

## Planning Assessment of Policy and Other Material Considerations

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Cookstown Area Plan 2010  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 10 - Dwellings on the Farm

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

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

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

- (a) the farm business is currently active and has been established for at least 6 years;
- (b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008; and
- (c) the new building is visually linked or sited to cluster with an established group of buildings on the farm and the access should be taken from an existing lane. Consideration may be given to a site located away from the farm complex where there are no other sites available on the holding and where there are either:-
  - demonstrable health and safety reasons; or
  - verifiable plans to expand the farm business at the existing building group.

With respect to (a), a consultation was sent to DAERA with regards to the Farm Business, in their response they noted that no farm business number was provided and confirmed that the proposed site is not currently claimed for by any farm business. I note that only an applicant ID was provided with a series of receipts for various works. However upon review of such I am not content that a farm business is operating and is seen to fail this part of the policy.

With respect to (b), given that no farm business has been provided, no farm maps were provided either. Rather such the agent confirmed that the lands shown in the location plan are all that are owned by the applicant in relation to the business. Given the lack of farm business number it has been difficult to check for sell offs fully, as only reasonable checks could be done on the lands identified. On the lands shown there has been no other development opportunities attained.

With respect to (c), despite the issues over the farm business, I note that the only buildings in the ownership of the applicant are the main dwelling and one small shed, in which as the only buildings would constitute a group. As such that whilst the site sits higher than this group I would be content that it would be able to visually link nonetheless. The policy states that where practicable to use an existing laneway for access, I note that the intention is to create a new access onto public road which would be the only suitable option. Given this I hold the opinion the application has failed under this policy.

I note that no other policy consideration was put forward and upon review of each I hold the view that they would not meet any of the relevant policies under CTY 1.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that the proposed site is on an elevated site with a small level of trees to the rear acting as a background. As such only a single storey dwelling would be acceptable to ensure it is not visually prominent and would be able to visually integrate. Additional landscaping will be required for the new boundaries.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. I hold the view that an appropriately designed dwelling would not harm rural character in the area.

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

PPS 3 - Access, Movement and Parking;

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

I have no ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

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

essential in this rural location and could not be located within a settlement.

2. The proposal is contrary to 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 there is farm business and that it is currently active and established.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	28th October 2021
<b>Date First Advertised</b>	9th November 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 18 Moneygaragh Road Dungannon Tyrone The Owner/Occupier, 23 Moneygaragh Road Dungannon Tyrone	
<b>Date of Last Neighbour Notification</b>	25th November 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: I/1995/0363 Proposal: Replacement Dwelling Address: 19 MONEYGARAGH ROAD ROCK DUNGANNON Decision: Decision Date:  Ref ID: LA09/2021/1566/O Proposal: Proposed farm dwelling & garage. Address: Approx. 65m North of 19 Moneygaravagh Road, Rock, Dungannon., Decision: Decision Date:  Ref ID: I/2005/0619/O Proposal: Proposed dwelling house Address: 90m North West of 19 Moneygaragh Road Rock Cookstown Decision: Decision Date: 14.07.2005  Ref ID: I/2006/0482/F Proposal: Proposed dwelling Address: 190m East of 25 Moneygaragh Road, Rock Cookstown Decision: Decision Date: 16.03.2007  Ref ID: I/2007/0576/RM	

Proposal: Proposed dwelling with intergrated garage.  
Address: 90m N.W. of 19 Moneygaragh Road, Rock, Cookstown  
Decision:  
Decision Date: 18.02.2008

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1641/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling	<b>Location:</b> Approx 30m North of 6 Ruskey Road Coagh Cookstown
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1 and CTY 3 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Jim Mc Intyre 6 Ruskey Road Coagh Cookstown	<b>Agent Name and Address:</b> Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Statutory	Historic Environment Division (HED)	Content

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1 and CTY 3 of PPS 21.

### Characteristics of the Site and Area

The site is approximately 0.8km north of the development limits of Coagh, as such the site is located within the open countryside as per the Cookstown Area Plan 2010. The site has been identified as Approx 30m North of 6 Ruskey Road, Coagh, Cookstown, in which the site proposes a new access onto the private laneway off the Ruskey Road. Within the red line sits a large detached store/workshop with a portion of the building identified to be a dwelling. I note that the immediate and surrounding area is characterised by predominately agricultural land uses with a scattering of residential properties.

#### Representations

Two neighbour notifications were sent out however no representations were received in connection with this application.

## Description of Proposal

This is a full application for a proposed replacement dwelling, the site is located Approx 30m North of 6 Ruskey Road, Coagh, Cookstown.

## Planning Assessment of Policy and Other Material Considerations

The key planning issues are as stated below and following policies/advice have been included in this assessment:

Mid Ulster Local Development Plan 2030 - Draft Plan Strategy  
 Strategic Planning Policy Statement (SPPS)  
 Cookstown Area Plan 2010  
 PPS 1 - General Principles  
 PPS 3 - Access, Movement and Parking  
 PPS 21 - Sustainable Development in the Countryside  
 Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside  
 CTY 1 - Development in the Countryside  
 CTY 3 - Replacement Dwellings

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the Countryside. Policy CTY 1 provides clarification on which types of development are acceptable in the countryside. In this instance the application is for a replacement dwelling and as a result it must be considered under CTY 3 of PPS 21. CTY 3 states that planning permission will be granted for a replacement dwelling where the building to be replaced exhibits the essential characteristics of a dwelling and as a minimum all external structural walls are substantially intact. I note that during the site visit I witnessed that the building identified to be replaced looked more like a large detached store from the outside. However once inside it is clear that at some point a portion of the building has been used a dwelling or made to appear so. Upon further study of the building I note there was only permission for the store and never any permission for any conversion of part of the store to a dwelling. Additional evidence was sought to demonstrate that this part of the building has been used a dwelling for an excess of five years. This evidence was not provided, given this and the ambiguity as to when the building was converted I am not content that this demonstrates as a valid replacement opportunity.

Despite the concerns over whether or not this is a dwelling or not, in terms of the proposed siting, I note given the fact the 'dwelling' is attached to the store that an off-site position would make most sense to provide some level of curtilage and amenity space. I note that a small modest detached dwelling is proposed which would have minimal impact on the surroundings and it is of suitable design. However I still hold the view that the application fails under CTY 3 given the ambiguity over whether or not this was a dwelling.



I note that no other policy consideration was put forward and upon review of each I hold the view that they would not meet any of the relevant policies under CTY 1.

The proposed development must also comply with policies CTY 13 and 14, in that CTY 13 states that the proposed development is able to visually integrate into the surrounding landscape and be of appropriate design. As noted I am content that the proposed dwelling will be able to successfully integrate into the landscape and it is of appropriate design. From this I am content that the application is able to comply with CTY 13.

CTY 14 states that planning permission will be granted for a building where it does not cause a detrimental change to, or further erode the rural character of the area. Based on the guidance I am content that the proposed dwelling will not conflict with CTY 14.

**PPS 3: Access, Movement and Parking**

I note that the intention is to use an existing unaltered access, a consultation was sent to DFI Roads who responded to state that this is a replacement dwelling DFI recommend that the access be upgraded to the standards as shown on the attached RS1 form.

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

I have no flooding, ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

2. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that it has not demonstrated that this is a valid replacement opportunity as there is no structure that exhibits the essential characteristics of a dwelling.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	15th November 2021
<b>Date First Advertised</b>	30th November 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 6 Ruskey Road Coagh Londonderry The Owner/Occupier, 8 Ruskey Road,Coagh,Londonderry,BT80 0AA	
<b>Date of Last Neighbour Notification</b>	10th December 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2021/1641/F Proposal: Proposed replacement dwelling Address: Approx 30m North of 6 Ruskey Road, Coagh, Cookstown, Decision: Decision Date:  Ref ID: I/1988/0333 Proposal: DWELLING Address: RUSKEY ROAD, COAGH Decision: Decision Date:  Ref ID: I/1992/0066 Proposal: Extension and alterations to dwelling Address: 14 RUSKEY ROAD COAGH Decision: Decision Date:  Ref ID: I/1987/0494 Proposal: DWELLING AND GARAGE Address: RUSKEY ROAD, UPPER RUSKEY, COAGH Decision: Decision Date:  Ref ID: I/1996/0355 Proposal: 11KV Rural Spur	

<p>Address: TOWNLAND OF BALLYDAWLEY COOKSTOWN                  Decision:                  Decision Date:</p> <p>Ref ID: I/1986/0105                  Proposal: DWELLING HOUSE                  Address: BALLYDAWLEY, MONEYMORE, COUNTY LONDONDERRY                  Decision:                  Decision Date:</p> <p>Ref ID: I/1977/0111                  Proposal: ERECTION OF STORE                  Address: BALLYDAWLEY, MONEYMORE                  Decision:                  Decision Date:</p> <p>Ref ID: I/1977/012801                  Proposal: REPLACEMENT DWELLING                  Address: BALLYDAWLEY, MONEYMORE                  Decision:                  Decision Date:</p> <p>Ref ID: I/1977/0128                  Proposal: REPLACEMENT DWELLING                  Address: BALLYDAWLEY, MONEYMORE                  Decision:                  Decision Date:</p>
<p><b>Summary of Consultee Responses</b></p>
<p><b>Drawing Numbers and Title</b></p>
<p>Drawing No. 01                  Type: Site Location Plan                  Status: Submitted</p> <p>Drawing No. 02                  Type: Site Layout or Block Plan                  Status: Submitted</p>
<p><b>Notification to Department (if relevant)</b></p> <p>Date of Notification to Department:                  Response of Department:</p>



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

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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 05/04/2022	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1692/O	<b>Target Date:</b>
<b>Proposal:</b> Renewal of Outline Planning Permission LA09/2018/1095 for infill dwelling and garage.	<b>Location:</b> Lands between 14 and 24 Rossmore Road Dungannon
<b>Referral Route:</b> 1. Agent is Mid Ulster Council employee. 2. Objection from third party at neighbouring dwelling.	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Ashley Fleming 19 Rossmore Road Dungannon BT71 4BJ	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
<b>Executive Summary:</b> The proposal is for the renewal of planning approval LA09/2018/1095 for infill dwelling and garage. There is an objection to the proposal and the objector raised issues with neighbour amenity and surface water flooding from the site to their property.	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



**Consultations:**

Consultation Type	Consultee	Response
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**Representations:**

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

**Characteristics of the Site and Area**

The site comprises a small square portion of a field located between number 14 and 24 Rossmore Road. The site rises gradually from the roadside to the rear (SW to NE). The roadside boundary is defined by a mature native species hedgerow, a timber d rail fence along both sides adjoining the dwellings and it is undefined on the ground on the rear. The site is enclosed by two bungalows on each side.

The site is situated in the open countryside outside all other areas of control. It is located a short distance to the North of and just outside the settlement limit of Dungannon. The general area is rural in nature however, there is a significant amount of development located at this particular cluster/T-junction.

**Description of Proposal**

This is renewal of Outline Planning Permission LA09/2018/1095 for infill dwelling and garage at lands between 14 and 24 Rossmore Road, Dungannon.

## Planning Assessment of Policy and Other Material Considerations

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

### Representations

Press advertisement and neighbour notification have been carried out in line with the Council's statutory duty. At the time of writing, one third party objection has been received.

One objection was received by letter on the 4<sup>th</sup> January 2022 from the owner/occupier of the neighbouring dwelling to the south east at No. 24 Rossmore Road, Dungannon. The main issues raised relate to neighbour amenity, flooding and road safety.

1. The first issue raised by the objector is about a negative impact on No. 24's neighbour amenity from the proposed access lane. The objector states the proposed lane and dwelling run along the side and rear of their property and the laneway will look directly into their bedroom and bathrooms. The objector states that to plant trees along the lane to the will block all light around their dwelling and windows at the proposed dwelling will look directly into their kitchen. No objections were received in the approval LA09/2018/1095/O and Roads raised no concerns about the access in the original outline approval. As this is an outline approval the siting and design of the dwelling will be considered at the reserved matters stage. I consider it is appropriate to condition the planting of hedging along the northern boundary of No. 24 as a condition to mitigate against any loss of amenity due to the access lane.

The proposed access off Rossmore Road is to the south of the objectors dwelling as show in figure 1 below. Figure 2 shows the objector's dwelling at No. 24 and the proposed access will run on land with a higher ground level around the side of their property. To ensure that adequate measures are in place to ensure the stability of the access road behind the dwelling at No. 24 I consider it is appropriate to condition that an engineer's report is submitted with the reserved matters.

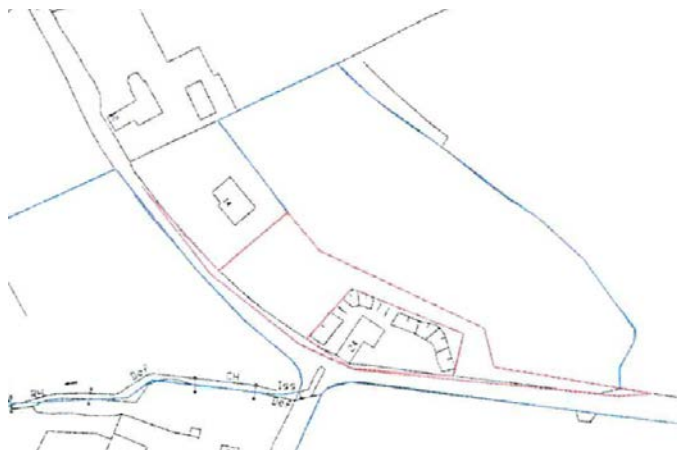


Figure 1 – Snapshot from the site location plan to show the access.

2. The second issue raised by the objector is about flooding onto No. 24's property. The objector states that water runs from the site onto their property and floods their property. I have checked the statutory Flood Maps NI map viewer and there is no surface water flooding at the application site only a portion of flooding to the front of the proposed access. The maps do show there is surface water flooding at No. 24 and to the front of No. 24. I consulted Rivers Agency as the statutory consultee on flooding and in their response dated 1<sup>st</sup> March 2022 they state the site is adjacent to a predicted flooding area and a Drainage Assessment is not required but the developer should still carry out their own assessment of flood risk and construct in a manner that minimises flood risk to the proposed development and elsewhere. The application site is on higher land in relation to No. 24 as shown in fig 1 below so I consider it is appropriate to condition a drainage plan is provided prior to the commencement of the development. This would provide details how the applicant will mitigate against surface water travelling onto No. 24.



Fig 2 – No.24 is the dwelling with the red brick projection and the application site is land to the rear on higher ground.

3. The third issue raised by the objector relates to road safety and that another laneway along this road will encourage young drivers to race their cars up and down the hill. DFI roads raised no concerns about road safety with this proposal in their consultation response in LA09/2018/1095/O. there is nothing to suggest if this was approved that it would cause this issue and as such, in your opinion it is not a determining factor in the consideration.

### **Planning History**

LA09/2018/1095/O - Site for dwelling and Garage (infil) - Lands between 14 & 24 Rossmore Road, Dungannon – Permission Granted 02.02.2019

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

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

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

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

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

### **Planning Policy Statement 21 – Sustainable Development in the Countryside**

The proposal is for the renewal of planning permission LA09/2018/1095/O and this application was submitted on the 26<sup>th</sup> November 2021 before the expiry date of 17<sup>th</sup> December 2021. The application is within the 3 years so I am content the extant permission is still live. The application has been made under Article 3 (5) of the Planning (General Development Procedure) Order (NI) 2015 to renew planning permission where existing approval has not yet expired [Schedule 1, Part 1 General Provisions, Paragraph 3].

### **CTY 8 – Ribbon Development**

Between number 14 and 24 Rossmore Road, there is a gap of approx. 45 metres building to building or 35 metres plot frontage. The site lies in the middle of 3 dwellings, and 2 out buildings. In my opinion, this row constitutes the definition of a substantially built up frontage. The gap between the frontages of development is under 35 metres and is therefore sufficient to accommodate no more than 2 dwellings when taking into account existing plots sizes of between 30m and 50m and the roadside frontage size of surrounding dwellings. I am content the proposal still complies with policy CTY8 of PPS21.

### **CTY 13 – Integration and Design of buildings in the countryside**

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. It is considered that a dwelling could blend in successfully with its immediate and wider surroundings if it were of a size and scale that is comparable to the dwellings in the vicinity. Furthermore, as the site has existing buildings on both sides, mature boundary vegetation on two sides it is my opinion that the site has the capacity to absorb a dwelling of a suitable size and scale. I have no concerns regarding integration. I consider it is still appropriate to have a 5.5 metres ridge on the dwelling to fit with the other dwellings in the area.

### **CTY 14 – Rural Character**

In terms of policy CTY14, planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. It is considered that the site and its surrounding environs are suitable for absorbing a dwelling of a suitable size and scale. I would recommend imposing a height and siting restriction to the application site. 5.5 metres.

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



There have been no changes to the position of the access since the latest outline approval so I am of the opinion it is not necessary to re-consult DFI roads.

### **Other Considerations**

I checked the statutory NED, HED and flooding map viewers and there are no NED issues at the site. The site is within the statutory 200m buffer zone of archaeological site and monument TYR046:005 which is the ecclesiastical site at Drumglass church and graveyard. In outline approval LA09/2018/1095/O HED had no concerns about the proposal and there have been no changes so it is not necessary to re-consult Roads. There is no surface water or flood plain flooding at the application site but there is surface water flooding at No. 24 and a portion of the roadside directly in front of the access.

**Neighbour Notification Checked**      Yes

### **Summary of Recommendation:**

The proposal is recommended for approval as LA09/2018/1095/O was still live at the submission date of this application and there have been no changes to the policy in the past 3 years.

### **Conditions**

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

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

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

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

3. Prior to commencement of any development hereby approved, the vehicular access including visibility splays of 2.4m x 45.0m shall be provided in accordance with a 1/500 scale site plan as submitted and approved at Reserved Matters stage. The area within the visibility splays shall be cleared to provide a level surface no higher than 250mm above adjoining road and kept clear thereafter.

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

4. The proposed dwelling shall have a ridge height of less than 5.5 metres above finished floor level.

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

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

Reason: In the interest of visual amenity.

6. The proposed dwelling shall be sited in the area shaded green on the approved plan date stamped 22 NOV 2021.

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

7. The development hereby permitted shall not commence until such time as the applicant has submitted a drainage plan and this condition has been discharged and received written confirmation that the Council has agreed to discharge of this condition.

Reason: To safeguard the site and adjacent land against flooding and standing water.

8. A qualified engineer report shall be submitted simultaneously with the detailed drawings for the development, hereby approved at the Reserved Matters Stage.

Reason: To certify that adequate measures are in place to secure the stability of the access road

9. During the first available planting season after the occupation of the dwelling, a (hawthorn/natural species) hedge shall be planted in a double staggered row 200mm apart, at 450 mm spacing, 500 mm to the rear of the sight splays along the front boundary of the site and the boundaries of the site as indicated in blue on drawing no 01 date stamped 26 NOV 2021.

Reason: In the interests of neighbouring amenity.

10. A landscaping scheme shall be submitted simultaneously with the detailed drawings for the development, hereby approved at the Reserved Matters Stage. No trees or hedgerows which may be damaged or die within a period of 5 years from the date of the planting shall be replaced by plants of similar species and size at the time of their removal.

Reason: In the interests of visual amenity.

### **Informatives**

1. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
2. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.

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

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

A monetary deposit will be required to cover works on the public road.

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

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

4. A Consent to Discharge Sewage Effluent being obtained from Water Management unit, The Northern Ireland Environment Agency, as required by the Water (Northern Ireland) Order 1999.

A legal agreement being obtained in relation to lands used in connection with any septic tank/drainage arrangement where such lands are outside the ownership of the applicant or outside the area marked in red which is the subject of this application. This agreement must ensure that the lands in question will always be available for the intended purpose and also that any occupier/owner of the proposed development will have access to these lands for maintenance/improvement works as required. Such legal agreement should be included in any planning approval as a planning condition.

The applicant ensuring that the proposal does not compromise any existing drainage arrangements serving existing neighbouring premises or developments not completed/commenced which are the subject of a planning approval.

**Signature(s)**

**Date:**



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

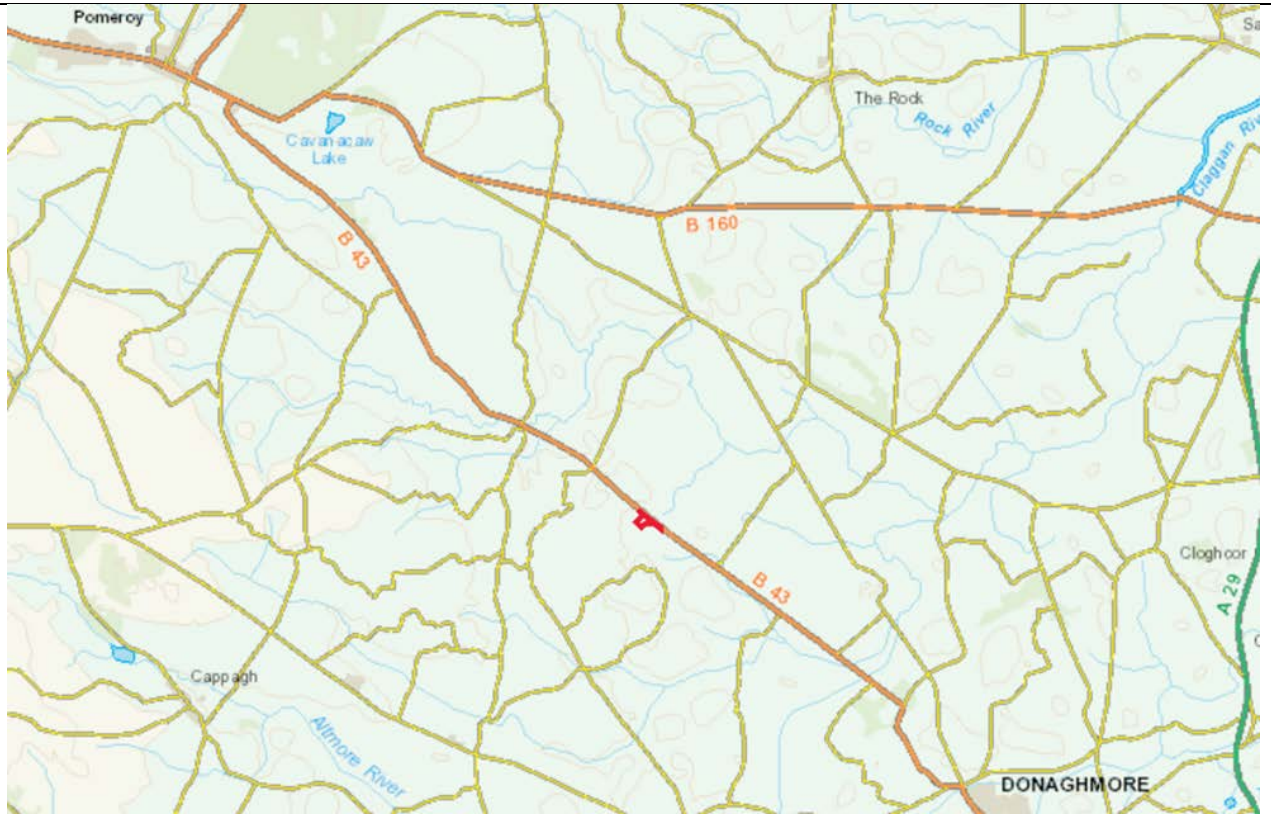
Mid-Ulster  
Local Planning Office  
Mid-Ulster Council Offices  
50 Ballyronan Road  
Magherafelt  
BT45 6EN

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1700/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Land off Pomeroy Road approx. 285m North East of 47 Kilmardle Road Dungannon
<b>Referral Route:</b>	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mr Robert Quinn 47 Kilmakardle Road Dungannon	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report

Site Location Plan



Consultations:

Consultation Type	Consultee	Response
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Statutory	DFI Roads - Enniskillen Office	Standing Advice
Non Statutory	DAERA - Omagh	Considered - No Comment Necessary
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Description of Proposal</b>		
<p>This is an outline planning application for a dwelling and garage on a farm. The site is located on lands off Pomeroy Road approx. 285m North East of 47 Kilmardle Road Dungannon.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located in the rural countryside, as depicted within the Dungannon and South Tyrone Area Plan, approx. halfway between Donaghmore and Pomeroy.</p> <p>The site is a relatively square shaped plot cut from the roadside frontage and northern corner of a larger agricultural field situated adjacent and accessed off the Pomeroy Rd. A mix of post and wire fencing and light vegetation bound the northeast / roadside and northwest boundaries of the site. The remaining boundaries are undefined and open onto the host field. Whilst the site and host field comprises largely flat low-lying land approx. 1½ m below the level of the adjacent Pomeroy Rd an area around the existing access into the site has been filled in with hardcore and inert material to create level entry. There will be open views of the site from the Pomeroy Rd over 300m approx. on the northwest approach, over approx. 100m on the southeast approach and passing along the frontage of the site.</p> <p>The area surrounding the site is predominantly flat low lying agricultural land interspersed with detached dwellings, ancillary building and farm groups. A dwelling and small no. outbuildings sit on a gravelled yard directly opposite the site to the other side of the Pomeroy Rd; and the applicant's farm buildings including dwelling, poultry units and ancillary buildings / sheds are well set back to the southwest of the site visible from the Pomeroy Rd.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>Section 45(1) of the Planning Act (NI) 2011 requires the Council, in dealing with an application, to have regard to the local development plan (LDP), so far as material to the application, and to any other material considerations. Section 6(4) requires that the determination of proposals must be in accordance with the LDP unless material considerations indicate otherwise.</p>		

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement 3: Access, Movement and Parking

Planning Policy Statement 21: Sustainable Development in the Countryside

Development Control Advice Note 15: Vehicular Standards

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

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

**Representations**

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

**Planning History**

On Site

- M/1989/0038 - Dwelling and garage - Opposite 37 Mullaghmore Rd Mullaghmore Dungannon - Granted 10<sup>th</sup> April 1989
- M/1989/0038B - Dwelling and garage - Opposite 37 Mullaghmore Rd Mullaghmore Dungannon - Granted 31<sup>st</sup> May 1990

The time for implementing the above applications has expired.

Adjacent

- M/2005/0994/O - Proposed Dwelling - Adjacent to 170 Pomeroy Rd Donaghmore Dungannon - Granted 8<sup>th</sup> June 2006
- M/2007/1462/F - Site for dwelling (under article 28 of the Planning (NI) Order 1991) without compliance with conditions 13 %14 with regards to re-siting of vehicular access of previous approval reference M/2005/0994/O - Withdrawn 28<sup>th</sup> January 2009

The above applications located on lands along the Pomeroy Rd between the site and no. 170 Pomeroy Rd to its southeast were made by the farm owner on the current application.

- M/2013/0499/F Proposed additional 1no. free range poultry shed and feed bin - Land approx. 120m north east of 47 Kilmakardle Rd Dungannon - Granted 30<sup>th</sup> December 2013
- LA09/2016/1349/F - Proposed 1no. additional free range poultry shed with 1no. feed bin (New shed to contain 7000 free range egg laying hens taking the total site capacity 36840 free range egg laying hens) - Land approx. 150m North of 47 Kilmakardle Rd Dungannon - Granted 8<sup>th</sup> May 2017



The above applications made by the farm owner on the current application relate to 2no. poultry units set back from the Pomeroy Rd to the southwest of the site.

### **Consultees**

1. DfI Roads were consulted in relation to access arrangements and have no objection subject to standard conditions and informatives. Accordingly, I am content the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and Parking.
2. Department of Agriculture, Environment and Rural Affairs (DEARA) were consulted on this application and confirmed the farm business stipulated on the P1C Form accompanying the application is currently active and has been established for at least 6 years.

### **Consideration**

Dungannon and South Tyrone Area Plan 2010 – the site lies in the rural countryside outside any designated settlement.

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

Planning Policy Statement 21 (PPS21): Sustainable Development in the Countryside – is the overarching policy for development in the countryside. Policy CTY1 of PPS 21 states "There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development". These include dwellings on farms in accordance with Policy CTY 10 of PPS 21, which the applicant has applied under.

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

1. the farm business is currently active and has been established for at least 6 years,

The applicant has a farm business and as confirmed with the Department of Agriculture, Environment and Rural Affairs (DAERA) this farm business (identified on P1C Forms and Farm maps submitted along with the application) has been active and established for over 6 years. Criterion (1) of CTY 10 has been met.

2. 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 or since PPS 21 was introduced on 25th November 2008,

I have checked the farm maps associated with the application and there is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within the last 10 years from the date of the application. Criterion (2) of CTY 10 has been met.



3. the new building is visually linked or sited to cluster with an established group of buildings on the farm. 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 such circumstances the proposed site must also meet the requirements of CTY 13(a-f), CTY 14 and CTY 16.

A dwelling and garage on the proposed site would not visually link or cluster with the applicant's farm group including a dwelling, poultry units and ancillary buildings / sheds which are located well set back and removed from the Pomeroy Rd to the southwest of the site (see Fig 1 below). Furthermore, no health and safety reasons to justify siting away from the farm group or verifiable plans to expand the farm business at the existing building group have been submitted. Criterion (3) of CTY 10 has not been met.

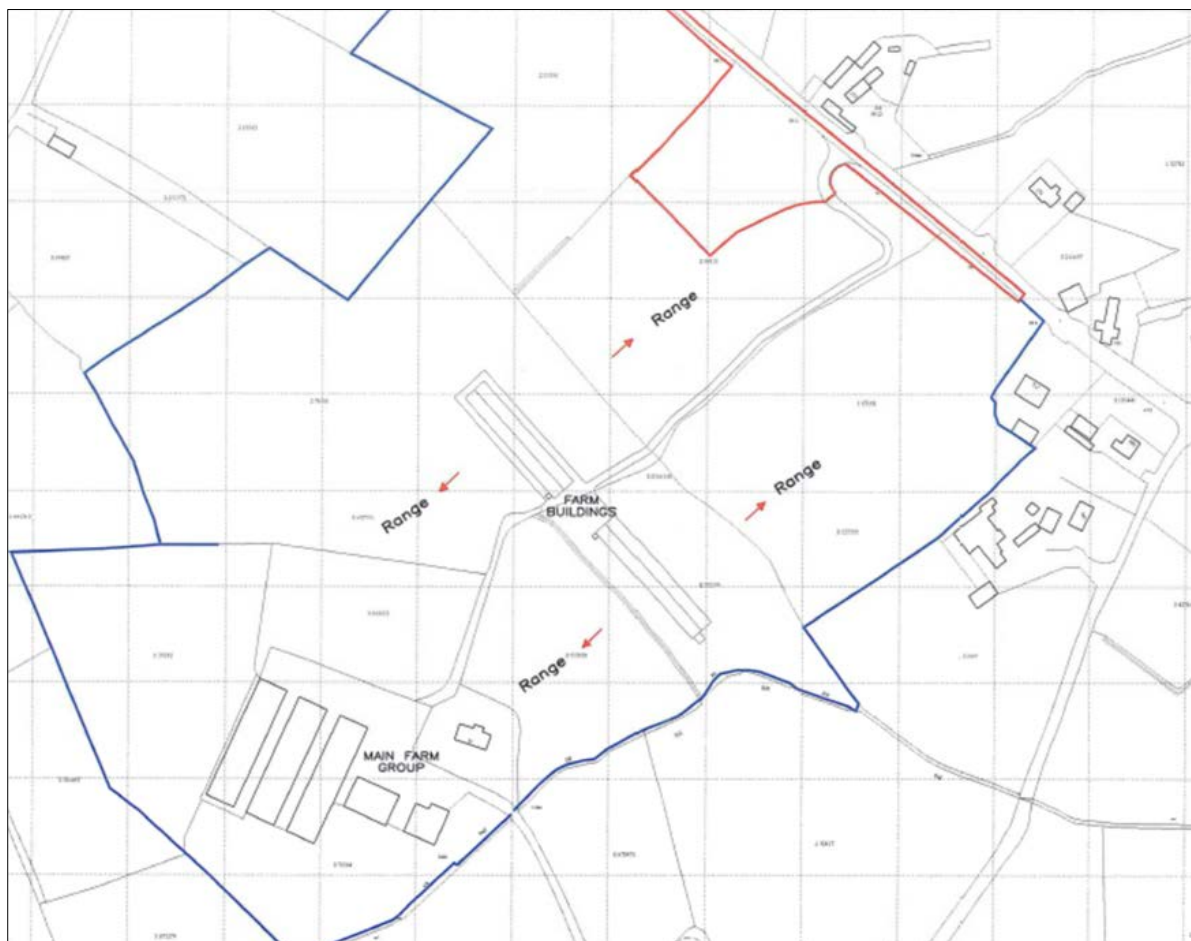


Fig 1: Site location plan showing site outlined red and applicant's farmlands including buildings outlined blue

Nor has the site has the capacity to integrate a dwelling and garage in accordance with policies CTY 13 and CTY 14 of PPS21 as also required by policy CTY 10. The site in my opinion lacks sufficient long established natural boundaries to provide a dwelling and garage on this site, when viewed from the public road, with a suitable degree of

enclosure to integrate it into the landscape without detriment to the rural character of the area.

As detailed above, whilst criteria 1 and 2 of Policy CTY10 has been met, criteria 3 of CTY10 has not been met as a dwelling and garage on the proposed site would not visually link or cluster with the applicant's farm group. Additionally, the site does not have the capacity to integrate a dwelling and garage in accordance with policies CTY 13 and CTY 14. Therefore this proposal is contrary to policies CTY10, 13 and 14.

**Additional considerations**

Had the principle this proposal been established I would have had no concerns regarding a new dwelling located on this site impacting the amenity of existing or potential neighbouring properties to any unreasonable degree in terms of overlooking or overshadowing given the location of the site and separation distances that would be retained.

In addition to checks on the planning portal Historic Environment Division (HED) and Natural Environment Division (NED), map viewers available online have been checked and identified no built heritage assets of interest or natural heritage interests of significance.

Flood Maps NI indicate no flooding on site.

**Recommendation:** Refuse

<b>Neighbour Notification Checked</b>	Yes
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<b>Summary of Recommendation</b>	Refuse
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**Refusal reasons**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that proposed new building will not be visually linked or sited to cluster with an established group of buildings on the farm.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the new building to integrate into the landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the new building would, if permitted, be unduly prominent in the landscape and would therefore result in a detrimental change to the rural character of the countryside.

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



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

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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1729/F	<b>Target Date:</b>
<b>Proposal:</b> Dwelling & Garage (Infill site)	<b>Location:</b> Approximately 40m South of 44A Sherrigrim Road Stewartstown
<b>Referral Route: Refusal</b>	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr A Kelso 44a Sherrigrim Road Stewartstown	<b>Agent Name and Address:</b> Henry Murray 37c Claggan Road Cookstown BT80 9XJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report

Site Location Plan



Consultations:

<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	DFI Roads - Enniskillen Office	Content
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Description of Proposal</b>		
This is a full application for a proposed dwelling and garage on an infill site located approx. 40m South of 44A Sherrigrim Road Stewartstown.		
<b>Characteristics of the Site and Area</b>		
<p>The site is located in the rural countryside, as depicted within the Cookstown Area Plan, approx. 1 mile west of Stewartstown.</p> <p>The site is a rectangular shaped plot comprising the northern half of a larger roadside field. The host field's frontage is located within a line of existing roadside development consisting of 3 bungalow dwellings with ancillary outbuildings / garages extending along the east side of the Sherrygrim Rd. The section of Sherrygrim Rd the host field sits adjacent and east of is minor secondary road off the main Sherrygrim Rd (Stewartstown - A29), located north of the site. The bungalows in the line, all accessed off the secondary Sherrygrim Rd, include: no. 44a Sherrygrim Rd, the applicant's home, bound to the rear by a no. of sheds it would appear in association with a garden machinery business; no. 46 Sherrygrim Rd; and no. 48 Sherrygrim Rd. The host field's frontage is located within the line of development between no. 44a Sherrygrim Rd, located immediately to its north and nos. 46 and 48 Sherrygrim Rd located in that order to its south. No. 44a Sherrygrim Rd is orientated gable end onto the secondary Sherrygrim Rd, backing onto the site and fronting north onto the main Sherrygrim Rd. Nos. 46 and 48 Sherrygrim Rd front onto the secondary Sherrygrim Rd. A mature hedge defines the east (rear) and west (roadside frontage) boundaries of the site. A mix of d-rail and post and wire fencing bounds the northern / party boundary of the site with no. 44a Sherrygrim Rd. The landform in the immediate area rises quite steeply upwards in a north to south direction from the main Sherrygrim Rd, up through the host field, and beyond to the south. As such, the host field occupies quite a prominent hillside location.</p> <p>Critical views of the site from the secondary section of the Sherrygrim Rd it is to be accessed directly off will be limited to just before and passing along the roadside frontage of the host field. This is due to the host field's location within a line of development, which alongside existing vegetation on site and within the wider vicinity and the topography of the area screen it. There will be open views of the site travelling west to east, and vice versa, along the main Sherrygrim Rd owing to its hillside location.</p> <p>The immediate area surrounding the site is rural in nature. It is characterised primarily by undulating agricultural land interspersed with single detached dwellings, ancillary buildings and farm holdings.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
Regional Development Strategy 2030		

Strategic Planning Policy Statement for Northern Ireland  
Cookstown Area Plan 2010  
Planning Policy Statement 3: Access, Movement and Parking  
Development Control Advice Note 15: Vehicular Standards  
Planning Policy Statement 21: Sustainable Development in the Countryside  
Building on Tradition - A Sustainable Design Guide for Northern Ireland Countryside

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

### **Representations**

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

### **Relevant Planning History**

None applicable

### **Consultees**

1. DFI Roads were consulted in relation to access arrangements, movement and parking and have no objection to this subject to standard conditions and informatives. Accordingly, I am content the access arrangements, can be conditioned, to comply with the requirements of PPS 3 Access, Movement and Parking.

### **Consideration**

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

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

Planning Policy Statement 21 (PPS21: Sustainable Development in the Countryside is the overarching policy for development in the countryside. It outlines that there are certain instances where the development of a dwelling is considered acceptable in the countryside subject to certain criteria. These are listed in Policy CTY1 of PPS21 - Development in the Countryside. One of these instances, which the applicant has applied under, is the development of a small gap site in accordance with Policy CTY8 - Ribbon Development.

Policy CTY8 states that an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental criteria. For the purposes of this policy



the definition of a substantial built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

I do not consider this application in principle acceptable under CTY8. It is my opinion that the current site does not constitute a small gap site within an otherwise substantial and continuously built up frontage. See 'Characteristics of the Site and Area'. Whilst it sits within a line of 3 bungalows with ancillary buildings running along the Sherrygrim Rd, accompanying development exists to the rear of the applicant's home; it could accommodate 3 dwellings if the existing development pattern was respected; and from critical views it and the wider host field including boundary vegetation creates a substantial visual break in the line. See Figs 1, 2 and 3 below.



Fig 1: View of site on east approach to its access off the main Sherrygrim Rd



Fig 2: View of site on west approach to its access off the main Sherrygrim Rd



Fig 3: View of site on west approach immediately before its access off the main Sherrygrim Rd

I consider the proposal contrary to Policy CTY8 of PPS 21 in that it would result in the creation of ribbon development along the Sherrygrim Road. I also consider the proposal contrary to Policies CTY 13 and CTY 14 of PPS 21. The site in my opinion occupies a relatively prominent hillside location and lacks sufficient long established natural boundaries to provide the dwelling and garage proposed, when viewed from the public road, with a suitable degree of enclosure to integrate it into the landscape without detriment to the rural character of the area.

**Additional considerations**

Had the principle this proposal been established, I am content the proposed dwelling should not have had a significantly adverse impact on neighbouring residents amenity, namely no. 44a Sherrygrim Rd, the applicant’s property in terms of overlooking or overshadowing due largely to the orientation off the dwelling and separation distances which would be retained between the existing and proposed properties.

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

Checks of the Planning portal and Flood Maps NI indicate the site is not subject to flooding

**Recommendation:** Refuse

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



**Reasons for refusal**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it does not constitute a small gap site and if permitted, the proposal would result in the creation of ribbon development along this stretch of the Sherrygrim Road.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks sufficient long established natural boundaries therefore is unable to provide a suitable degree of enclosure for the new building to integrate into the landscape.
4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would if permitted be unduly prominent in the landscape and result in the creation of ribbon development along this stretch of the Sherrygrim Road, therefore resulting in a detrimental change to the rural character of the countryside.

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



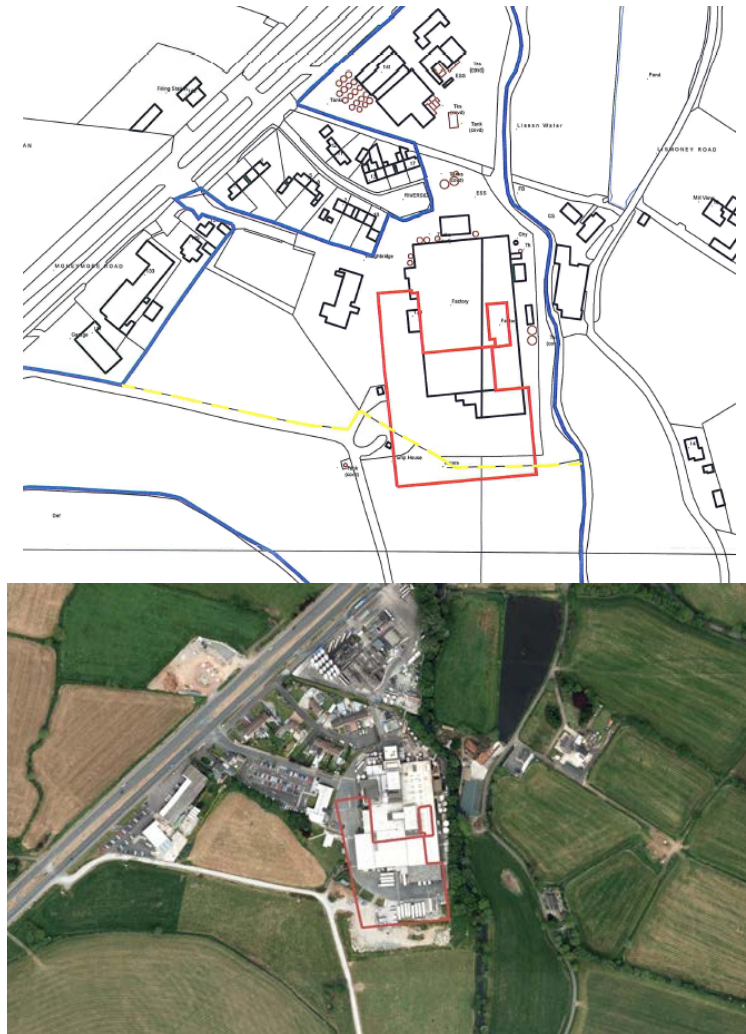
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
 District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1731/F	<b>Target Date:</b>
<b>Proposal:</b> Extension to the existing cheese plant & alterations to roof profile of existing building	<b>Location:</b> Lands at 141 Moneymore Road Dunman Bridge Cookstown
<b>Referral Route:</b> 2no. Objections received	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> Dale Farm Ltd 141 Moneymore Road Dunman Bridge Cookstown	<b>Agent Name and Address:</b> Henry Marshall Brown Architectural Partnership 10 Union Street Cookstown BT80 8NN
<b>Executive Summary:</b>  Proposal complies with relevant prevailing planning policy. 1No. objection letter received and considered below.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	NIEA	Advice
Statutory	Historic Environment Division	Content
Statutory	DFI Roads	Content
Non Statutory	Environmental Health	Content
Statutory	Rivers Agency	Substantive Response
Statutory	NI Water – Strategic Applications	Substantive Response

#### Representations:

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

#### Characteristics of the Site and Area

The site is located partly within and outwith the current Dale Farm complex, with a small portion of the lands lying outside the development limits of Dunman. The red line of the site comprises a portion of the existing factory with hardstanding area to the rear which is partially used for the turning and parking of HGV's. The topography is generally flat and drops away slightly from the existing factory. The eastern boundary is bounded by the Lissan Water and along here there is an LLPA designated as identified in the Cookstown Area Plan. The western boundary is defined by wire fencing with some native species hedgerow. Beyond the red line of the site to the south is grassland and an effluent treatment plant, all of which are sited within the blue land of the application site.

### **Description of Proposal**

This planning application seeks full planning permission for an extension to the existing cheese plant & alterations to roof profile of existing building located at Dale Farm Ltd, 141 Moneymore Road, Dunman Bridge, Cookstown.

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

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

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Cookstown Area Plan 2010
- Planning Policy Statement 3 - Access, Movement and Parking
- Planning Policy Statement 4: Planning and Economic Development
- Planning Policy Statement 6 - Planning, Archaeology and the Built Heritage
- Planning Policy Statement 15 – Flood Risk
- Planning Policy Statement 21: Sustainable Development in the Countryside

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

### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, 2no. Objection letters have been received from the owner/occupier of No.14 Lis money Road. The second objection provides two videos at day and night and advises these demonstrate the existing noise levels before

allowing the factory to expand much larger and even closer to his property. The concerns outlined in the second letter are summarised below:

- Further development will impact their quality of life further than what it is already living next to this fast growing factory;
- Overwhelming noise at all hours, odour, excessive unnecessary lighting and visual impact from the factory and neighbouring effluent plant which are now almost meeting will impact their lives;
- Surrounding area destroyed by the Dalefarm factory;
- Claims all development will automatically go ahead as will all planning permissions in the past 20 years on the site and no conditions are ever put in place for the provision of trees and screening.

In response to the comments raised by the objector; the comments regarding noise, odour and lighting have been considered at internal group and Environmental Health (EH) have reviewed these comments and the videos were sent directly for their comment. EH have offered no objections subject to conditions advising that they are satisfied that the applicant has demonstrated that nearby residential properties are unlikely to experience any increase in noise from the factory as a result of this application. It is noted the site is subject to IPC Regime by the NIEA who licence this factory under different legislation separate to that of Planning and regulate noise, odour and pollution. It is recognised this is an existing, established business currently in operation and the principle of development is established on the site. All previous planning permissions were considered against the prevailing planning policy at that time and determined that the existing business was allowed to operate at this location. Therefore this is not a matter for reconsideration under this planning application. The objections received have been examined and it has been considered that they relate to the process and the continued expansion of the complex. The application to be considered is not major development on site and is significantly reduced from that previously approved. I appreciate the objectors concerns with existing uses on the site however in considered the development proposed and in light of EH and NIEA responses I do not considered the proposed extension will detrimentally impact residential amenity to warrant refusal. It is not considered the proposed development will detrimentally impact the surrounding landscape. It was considered at internal group and given the existing mature trees along the Lissan Water which provides screening when travelling along Lismoney Road, additional tree planting was not considered necessary in this instance.

### **History on Site**

LA09/2021/1533/F - Retention of additional balance tank and associated site works at an existing effluent treatment plant at existing cheese processing factory (amended description) - Lands at 141 Moneymore Road, Dunman Bridge, Cookstown – Under Consideration

LA09/2021/0685/F - Proposed whey protein concentrate (WPC) processing, storage and dispatch project at existing cheese processing factory including 2 chiller units, 5No. 100000L silos 2No. 150000L silos within a 3m high bund area and associated equipment and site works including acoustic fencing - Lands at 141 Moneymore Road, Dunman Bridge, Cookstown – Under Consideration

LA09/2018/0016/F - Proposed upgrade of existing drying facilities within existing cheese processing factory - Permission Granted 30/01/19

LA09/2017/1330/DC - Discharge of condition 5 of Planning Permission

LA09/2015/0885/F- Solar Farm adjacent to Dale Farm Complex, Cookstown- Condition Discharged

LA09/2016/1816/F - Extension of an existing vehicular lane to provide access to the approved Dale Farm Solar Farm (LA09/2015/0885/F) - Permission Granted 13/4/17

LA09/2016/1650/F - Extension of the existing Dale Farm dairy and factory facility at Dunman Bridge, Moneymore Road to provide; additional cold storage warehousing; reconfiguration of dispatch bay; new palletising line; and relocation of powder store (Approved under I/2013/0124/F) - Permission Granted 10/07/17

LA09/2015/0885/F - Installation and operation of a 4.9MWp solar farm and associated infrastructure including photovoltaic panels, mounting frames, 3 no. control rooms, fencing pole mounted security cameras, underground and over ground electricity cables -Approx. 350m south of the Dale Farm complex, 139 Moneymore Road, Cookstown- Permission Granted 5/01/16

I/2013/0362/F - Proposed extension to existing factory including ground floor hygiene facilities and first floor office - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 25/03/14

I/2013/0200/F - Retention of 5 no. tanks to the front of the main factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 12/06/14

I/2013/0124/F - Proposed extension and alterations to existing powder store and dispatch at existing factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 11/09/13

I/2012/0068/F - Proposed 2 storey extension to existing factory - 139 Moneymore Road, Dunman, Cookstown - Permission Granted 08/06/12

I/2012/0439/F - Proposed storage tanks serving existing milk processing factory- 139 Moneymore Road, Dunman, Cookstown - Permission Granted 21/01/13

I/2012/0376/A - 1 no. wall mounted illuminated company logo in substitution of previously approved planning application I/2011/0399/A - Permission Refused 19/04/13

I/2011/0399/A - 1 no wall mounted non illuminated company logo - Dale Farm Ltd, 139 Moneymore Road, Dunman, Cookstown - Permission Granted 06/04/12

I/2007/0102/F - Instalation of 4 new stainless steel tanks- 139 Moneymore Road, Dunman, Cookstown - Permission Granted 18/06/07

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

This is an application for an extension to the established Dale Farm complex at Dunman, outside Cookstown. The creamery has operated at this location for over 50 years and it is the largest milk processing site in NI.

The extension extends 4658 square metres of floor space and is a notable reduction from the previously approved extension on the site approved under planning referenced LA09/20216/1650/F which extended over 10,000 sqm floor space. The site is located in Dunman but a small southern portion of the red line is outside the development limit as defined in the Cookstown Area Plan 2010. Within Dunman there are a number of commercial premises with Dale Farm being the largest land use with a residential area fronting onto the dual carriageway at Riverside. The site is currently accessed through the existing Dale Farm complex with a secondary laneway within the blue land which provides accessing to the treatment works to the south of the site area. In the supporting information for this application it states that the instillation of a second smaller cheese manufacturing and whey processing plant on the site will allow all of the milk coming onto the site to be processed into cheese therefore avoiding the need for a major upgrade of the spray dryers delivering a better financial return.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) is material to all decisions on individual planning applications. The SPPS sets out the transitional arrangements that will operate until a local authority has adopted a Plan Strategy for the whole of the council area and it retains certain existing planning policy statements. It also sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Cookstown Area Plan 2010 seeks to protect and extend existing industrial and business areas where they are within easy access of the urban population and will not have a significant adverse impact on the environment or local amenity. In addition it seeks to sustain a living and working countryside whilst protecting, from inappropriate development, those areas that are vulnerable to development pressure or that are visually or environmentally sensitive.

There is relevant history on this site as planning permission LA09/2016/1650/F was granted in 2017 and is presently extant for a large extension located on the application site. The proposed development is both within and outwith the development limits of Dunman as identified in the Cookstown Area Plan 2010. In the Cookstown Area Plan it is stated that the regional planning policies for industrial development are set out in Planning Policy Statement 4: Industrial Development. The Plan acknowledges that the village of Dunman is dominated and centred on a creamery and food processing plant. Policy CTY 1 states there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these is industry and business uses in accordance with Planning Policy Statement 4

PPS 4 - Policy PED 1 addresses "Economic Development in Settlements" and states that Class B2 Light Industrial Use will be permitted where it can be demonstrated that the scale, nature and design of the proposal are appropriate to the character of the settlement and it is not incompatible with any nearby residential use. The proposed

alterations to the existing building roof profile extend the roof height to approximately 15.5m with the proposed extension to create cheese store having a maximum ridge height of approximately 16.5m. Across the frontage of the Dale Farm site the proposed alterations and extension will not be the highest building. What is proposed in the development limit will be of a scale, nature and design that is appropriate to the character of the settlement.

As part of the red line is outside the development limits it falls for the application to also be considered under Policy PED 3 of PPS 4 "Expansion of an Established Economic Development Use in the Countryside". PED 3 allows for such an expansion where the scale and nature of the proposal does not harm the rural character or appearance of the local area and there is no major increase in the site area of the enterprise. As has been previously stated the Dale Farm complex is the predominant land use in the settlement of Dunman. It is clear that a relocation of the Dale Farm business would not be desirable. The encroachment of development outside of the settlement limits is minor and does not extend the building into the countryside. It is my opinion that the proposed extension will be acceptable at this semi-rural location. The proposal is not considered a major expansion. PED 3 requires a new extension/new building to respect the scale, design and materials of the original building. The proposal is in keeping with the scale and design of the existing buildings with the materials to match existing.

Policy PED 9 of PPS 4 "General criteria for Economic Development" states that a proposal for economic development will be required to meet all the criteria listed in PED and I will set out below my consideration of each point.

- a) The proposal is compatible with surrounding land uses given that it is an extension to the existing factory and there are other commercial uses in the vicinity of the site with any residential development to the northern end of the Dale Farm complex;
- b) I do not consider there will be a detrimental impact to neighbouring residential amenity to warrant planning refusal. Matters relating to noise, odour etc. is the responsibility of the Industrial Pollution and Radio Chemical Inspectorate which is separate to Planning. Consultation with both NIEA and Environmental Health has been carried out and no objections have been raised subject to conditions. In light of this, I am of the opinion that the proposed works are unlikely to give to any adverse impacts on nearby residents.
- c) Historic Environment Division were consulted and have advised on the basis of the information provided they are content that the proposal is satisfactory to SPSS and PPS 6 archaeological policy requirements. As such it does not adversely affect features of the natural or built heritage;
- d) Rivers Agency identified from The Strategic Flood Map (NI) that the site does not lie within the 1 in 100 year fluvial flood plain. An undesignated watercourse known as the Lissan Water flows along the eastern boundary and a 5m maintenance strip is required. The Drainage Assessment identifies the 5m wide maintenance strip has been retained and protected from impediments and on this basis Rivers Agency are content. Rivers Agency have considered the Drainage Assessment and advised a SuDS system is proposed and commenting on the efficacy of the proposed SuDS system is outside DfI Rivers area of knowledge and expertise. This was considered at internal group with the Principal Planner and it has been agreed that condition should be attached to any forthcoming approval requiring the SuDS drainage as indicated within the Drainage Assessment to be



implemented prior to the roof being in place. Overall it is considered the proposed development should not increase the risk of flooding to the development or elsewhere;

- e) EH were consulted on the development proposed and advised that noise from this proposal will operate more than 10 dB below the background noise level for the locality therefore noise from this proposal will not contribute to the overall noise from the existing factory. Having considered the proposal and EHD comments, I am content that the proposed development will not create any a noise nuisance.
- f) All consultees are satisfied with the proposal and no emission or effluent concerns have been raised;
- g) DFI Roads are content with the proposal and have raised no concerns with regards to the existing road network nor are any improvements required. The supporting statement advises that the proposal will result in 3 additional container loads of cheese leaving the site per day, however this will offset against the loads of milk powder containers currently leaving the site therefore there is no anticipated trip generation;
- h) There are no alterations to the existing access as a result of this proposal and DFI Roads are content with the access arrangements, parking and manoeuvring areas;
- i) The access to the site is not changing, neither is the public transport availability. Dale Farm have the internal arrangements designed to their specification;
- j) The design of the proposed extension mirrors the design of the existing Dale Farm buildings. The site layout is such that meets the needs of the Dale Farm operations and the existing boundary treatment and enclosure provided are considered adequate.
- k) As detailed the existing landscaping is acceptable and storage is a proposed use in the new extension;
- l) There are no crime or personal safety concerns; and
- m) Part of the application is in the countryside and I am content the proposed development will satisfactorily integrate into the existing built form with no significant impact to the surrounding landscape.

In addition NIW have no objections.

DAERA Water Management Unit is content with the proposal subject to conditions that the applicant refers and adheres to standing advice and any relevant statutory permissions being obtained and prior to commencement the method of sewage disposal is agreed in writing with Northern Ireland Water. The agent has confirmed that sewage will be disposed via an existing NI Water connection and milk/water from the factory is disposed via the adjacent existing effluent treatment works. NI Water were consulted have raised no objections to the proposed method of disposal. In light of NI Water response and following discussions with the Principal Planner, it is considered this condition is not necessary.

NIEA IPRI advised this proposal will be subject to a substantial variation to their existing PPC (IE) Permit. The application was received in December 2021 and is the process of being determined. The PPC permit is separate to planning and regulates emissions to air, land and water for the milk / cheese processing activities and associated effluent treatment activity. NIEA IPRI have raised no objections to the proposal and is content with the proposal on the basis the existing PPC permit is varied and an application has

been submitted to the Department detailing all expected environmental impacts and measures planned to reduce them and protect the environment. This will be added as an informative to any forthcoming approval.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Having considered the prevailing planning policy and all material considerations outlined above, I am of the opinion that this application accords with the relevant policy tests and therefore is recommended for approval subject to the following conditions.

**Conditions**

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

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

2. Prior to the roofing of the proposed extension and alterations hereby approved and detailed on Drawing 02 Rev 1 bearing the date stamp 4<sup>th</sup> February 2022, the SuDS system detailed in the Drainage Assessment by Flood Risk Consulting dated November 2021 should be implemented and retained in perpetuity. Should this SuDS system not be feasible, a drainage network design compliant with Annex D of PPS 15, which has been submitted to and agreed in writing by Mid Ulster District Council Planning Authority, shall be put in place prior to the roofing of the development hereby approved and shall be retained in perpetuity.

Reason: To safeguard against flood risk to the development and elsewhere.

1. The positioning of the three condenser units shall be as per Figure B - Elevations Design Drawing 21103-06-1 Rev A, contained within, Outward Sound Level Impact Assessment date stamped February 2022.

Reason: To protect nearby residential amenity.

2. The inner walls to the "well" in which the approved condenser units are positioned as identified in Figure B - Elevations Design Drawing 21103-06-1 Rev A, shown within, Outward Sound Level Impact Assessment date stamped February 2022, shall be lined with an acoustically absorbent material. The combined sound level for the three condensers shall not exceed 55dB L<sub>Aeq</sub> at 10 metres.

Reason: To protect nearby residential amenity.

3. Within 4 weeks of a written request by Mid Ulster District Council following reasonable noise complaint from the occupant of a dwelling which lawfully exists, the operator shall, at his/her expense, employ a suitably qualified and competent person, to assess noise levels against those detailed within the noise report date stamped February 2022. Details of noise monitoring survey shall be submitted to Council for written approval prior to any monitoring commencing. The Council shall be notified not less than 2 weeks in advance of the date of commencement of the noise monitoring. The Council shall then be provided with a suitable report detailing any necessary remedial measures. These remedial measures shall be

carried out to the satisfaction of Council within 4 weeks from the date of approval of the remedial report, and shall be permanently retained and maintained to an acceptable level thereafter, unless otherwise agreed in writing with Council.

Reason: To protect nearby residential amenity.

**Informatives**

1. This permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.
2. This permission does not confer title. It is the responsibility of the developer to ensure that he controls all the lands necessary to carry out the proposed development.
3. This determination relates to planning control only and does not cover any consent or approval which may be necessary to authorise the development under other prevailing legislation as may be administered by the Council or other statutory authority.
4. The applicant's attention is drawn to Rivers Agency consultation response dated 16th February 2022.
5. The applicant's attention is drawn to Environmental Health consultation response dated 27th February 2022.

**Signature(s)**

**Date:**



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1768/DCA	<b>Target Date:</b>
<b>Proposal:</b> Demolition of No's 29, 31 & 33 High Street Draperstown to allow for the re-development of the site for 2No offices & 3No apartment units. This application has been applied for under planning permission LA09/2021/1319/F	<b>Location:</b> 29 - 35 High Street Draperstown
<b>Referral Route:</b> Refusal is recommended.	
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Applicant Name and Address:</b> H V Property Developments Ltd 28 Five Mile Straight Draperstown	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b> This application proposes the total demolition of No.29-35 High Street. It is considered the proposal for demolition of 4 buildings in Draperstown's Conservation Area is contrary to the Strategic Planning Policy Statement and Policy BH14 of Planning Policy Statement 6. This application is accompanied by a full planning application for the redevelopment of the site under reference LA09/2021/1319/F.	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
Statutory	Historic Environment Division	Advice
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Characteristics of the Site and Area</b>		
<p>The application site is located within the settlement limits of Draperstown as defined in the Magherafelt Area Plan 2015 within the designated Draperstown Conservation Area. The site is located along High Street and comprises of 4 mid-terrace 2 storey (now derelict) buildings. No.29-31 were formerly used as a doctor’s surgery. No.33 was formerly a residential dwelling separated by an alley way to No.35 which also was formerly a dwelling. The separating alleyways provide a means of access to lands to the rear and associated back gardens which are overgrown. A lay-by area to the front of the buildings provides for an area of public realm and on-street car parking. Adjoining properties are primarily commercial in nature with the site opposite being occupied by an</p>		

existing petrol filling station. Established industrial businesses are located to the SW including Heron Bros which are accessed via Cahore Terrace.

### **Description of Proposal**

The application seeks Conservation Consent for the demolition of No.29 - 35 High Street, Draperstown to allow for the re-development of the site for 2No. Offices & 3No. Apartment units which forms part of planning application LA09/2021/1319/F being considered alongside this application.

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

With regard to designated Conservation Areas, Section 104 (11) of the Planning Act (2011) NI requires that special regard must be had with respect to any buildings or other land in that area, to the desirability of (a) preserving the character or appearance of that area in cases where an opportunity for enhancing its character or appearance does not arise; (b) enhancing the character or appearance of that area in cases where an opportunity to do so does arise.

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

- Regional Development Strategy 2030
- Strategic Planning Policy Statement for Northern Ireland
- Magherafelt Area Plan 2015
- PPS 6 -Planning, Archaeology and the Built Heritage
- Draperstown Conservation Area Guide

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

### **Representations**

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

### **History on Site**

LA09/2021/1319/F - Proposed site of residential and mixed use development - 29 - 35 High Street, Draperstown- Under Consideration

H/2014/0183/F - Complete redevelopment of the site, 29-35 High Street, for offices, coffee shop, fitness centre and car parking - Nos 29-33 & 35 High Street Draperstown – Application Withdrawn 11/04/16

H/2014/0181/DCA – Demolition of no's 29, 31, 33 and 35 High Street, Draperstown to make way for the for the re-development of the site for offices, coffee shop, fitness centre and car parking - Nos 29-33 & 35 High Street Draperstown – Application Withdrawn 11/04/16

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

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. SPPS sets out that Planning Authorities should be guided by the principle that sustainable development should be permitted, having regard to the local development plan and other material considerations unless the proposed development will cause demonstrable harm to interests of acknowledged importance. The SPPS seeks to secure the protection, conservation and where possible, enhancement of our built and archaeological heritage; promote sustainable development and environmental stewardship with regard to our built and archaeological heritage; and deliver economic and community benefit through conservation that facilitates productive use of built heritage assets and opportunities for investment, whilst safeguarding their historic or architectural integrity. The SPPS states In managing development within a designated Conservation Area the guiding principle is to afford special regard to the desirability of enhancing its character or appearance where an opportunity to do so exists, or to preserve its character or appearance where an opportunity to enhance does not arise. Accordingly, there will be a general presumption against the grant of planning permission for development or conservation area consent for demolition of unlisted buildings, where proposals would conflict with this principle. This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations grounded in the public interest. The SPPS states development proposals should only consider the demolition of an unlisted building where the planning authority deems that the building makes no material contribution to the character or appearance of the area and subject to appropriate arrangements for the redevelopment of the site

Magherafelt Area Plan 2015 is the extant area plan for the application site. The application site is located within the settlement limits of Draperstown within the Draperstown Conservation Area which covers the core of the village and was designated a Conservation Area in 1979. Being located within the Centre of Draperstown Conservation Area, this part of the streetscape is defined by a series of 'visual blocks' interspersed with gaps in between. Draperstown Conservation Area - Design Guide April 1995 states the attraction of the village, however, derives not so much from the individual buildings but more from the grouping of the buildings and their overall scale and proportion in relation to the long established street pattern.

Planning Policy 6 – Policy BH14 sets out the Policy considerations surrounding demolition in a Conservation Area. The bold text of the Policy states clearly that demolition of an unlisted building will normally only be permitted in a conservation area where the building makes no material contribution to the character or appearance of the area. The Policy requires a presumption in favor of retaining any building which makes a positive contribution to the character or appearance of the conservation area. Account is required to be taken of the wider effects of demolition on the buildings surroundings and on the conservation area as a whole. In cases where demolition may be appropriate, for example where a building does not make any significant contribution to a conservation area, the council will normally require full detailed plans about what is proposed for the site. This application is accompanied by such plans but they key issues for further



consideration primarily is the contribution to the Draperstown conservation area by the buildings and the acceptability of demolition.

Internal consultation with the Environment and Conservation Team Conservation Officer has been carried out. The Conservation Officer has advised on the basis of the information provided refusal is recommended as no relevant evidence has been submitted to justify demolition of existing historic structures. The further information required by the Environment and Conservation Team includes –

- Contextual and Cross Sectional Plans clearly illustrating the existing historic built structures in the context of High Street and with adjacent and adjoining historic built structures;
- Scaled Elevations and floorplans of the existing historic built structures;
- Conservation Structural Engineers Report; and
- Conservation Quantity Survey Report - record and assessment of the potential costs of repair of the existing historic built fabric.

As well as this, any existing trees within Draperstown Conservation Area are afforded protection under the Planning Act (NI) 2011 s.127 and s.128 and are a material planning consideration and additional surveys and information may be required should they be removed.

The planning history on the site is a material consideration and it is noted that a previous scheme for the demolition and redevelopment of the application site was recommended for refusal and subsequently withdrawn in 2016. As recognised by the previous case officer, it is agreed that the overall scale, form and proportions of the existing buildings are in keeping with the traditional character of the street. It is noted that No.29-33 exhibits some attractive detailing such as the vertical windows, decorative mouldings and substantial multi-pot chimneys, however No.35 appears to have been unsympathetically altered, this being evident in its dash finish and new window openings. Under the previous application, it was considered that the unsympathetic alterations to No.35 have resulted in this building no longer making a contribution to the conservation area. I accept and agree with this view that demolition of no.35 only is acceptable, however No.29 to 33 make a material contribution to the character and appearance of the conservation area and as such it is preferred that the buildings as a group be retained.

Significant concerns were relayed to the agent with respect the need to demolish the buildings No.29-33 in the designated conservation area. A structural survey report was sought and the Conservation Officer's internal consultation response was sent to the agent to review and address. It was relayed to the agent that the outcome of LA09/2021/1768/DCA will have implications on the planning application LA09/2021/1319/F. The agent submitted a Condition Report by BCD Partnership dated November 2013 which was previously relied upon but not accepted under the previous application H/2014/0181/DCA. The agent has argued the buildings have come into a state of disrepair and have become derelict and unoccupied since 2013 and have now become a health and safety risk due to the structures being in a worse dilapidated state. The agent argued this condition report shows that this is the case and should answer a lot of the Environmental and Conservation teams concerns. The Condition Report states the floors in numbers 29 to 33 are a mixture of solid concrete and suspended timber boards and joists. The concrete areas range in depth from 60mm to 75mm, they are uneven and do not appear to have damp proof membrane or insulation. Most of the



timber floors have been removed as they had collapsed due to wet rot. A number of defects were identified as follows:

- External doors and windows to Nos 29-33 missing;
- Roof slating throughout is defective and allowing water penetration;
- Roof purlins and rafters are undersized and contain wet rot;
- Ridge lines of No.31 and 33 have sagged – the entire roof area will have to be demolished;
- First floor joists are undersized – first floors will have to be demolished;
- In front walls, many of spandrel panels over the doors and windows contain vertical cracks and will require repair;
- It is concluded that there is seen little structural value in these buildings and recommend that they be demolished.

Under the previous application, the views of a structural engineer within the Central Procurement Directorate of DFP were sought as well as an assessment by Building Control following receipt of the Condition Report by BCD Partnership. The conclusions reached were that remedial work is required to stabilize some building elements but the buildings are currently structurally sound and carrying out remedial works will improve the longevity of the building. The building control assessment found that the existing external walls are considered to be in a reasonable condition, subject to issues relating to inadequate lintel capacity over openings. The front elevation is considered to be reasonable stable and the roof structure, whilst open to the elements in some places, is considered to be in reasonable condition and shows no evidence of major structural distress at present. Subject to the constraints of design-led demolitions and existing structural defects which will have to be remedied, it was the view of the specialist building control officer that the existing buildings are in reasonable structural condition at this time.

I note that the agent argues that the buildings have remained derelict since 2013 and therefore the structural integrity has continued to worsen. However, in the absence of any new supporting structural information to demonstrate this or any evidence to the contrary of the Central Procurement Directorate of DFP and Building Control advice, having considered this at internal group, it is considered that insufficient information has been provided to demonstrate that the buildings of No.29-33 are in a state of disrepair to warrant total demolition. It is recognized that additional cost will arise in terms of remedial works to No.29-33 as opposed to demolition, however SPPS paragraph 6.18 guiding principle is to afford special regard to the desirability of enhancing a conservation area character or appearance where an opportunity to do so exists or preserve its character or appearance where an opportunity does not arise. There is a general presumption against the grant of planning permission for development or conservation area consent from demolition of unlisted building where proposals would conflict with this principle, in my view this proposal does conflict with this principle as there is an opportunity here to preserve and enhance. This general presumption should only be relaxed in exceptional circumstances where it is considered to be outweighed by other material considerations in the public interest. No supporting information has been submitted to consider this proposal as an exception.

As well as internal consultation with Environment and Conservation Team, Historic Environment Division provided consultation advice. HED (Historic Monuments) is content that the proposal satisfies PPS 6 policy requirements, subject to conditions for the

agreement and implementation of a developer-funded programme of archaeological works. Historic Environment Division, Historic Buildings have considered the impacts of the proposal on adjacent listed buildings and consider the proposal may have an adverse impact on the listed buildings. In particular, HED have provided comment on the proposed redevelopment of the site and have concerns that some of the fenestration proposed do not integrate harmoniously with the other buildings; they are uncertain of the full impact that Blocks 2 and 3 will have on the High Street Frontage and the listed Presbyterian Church. HED defers to the Council Conservation Officer to comment on the impact of the proposal on the character and appearance of the Conservation Area; however advise they are not supportive of demolition of existing historic building stock but if this is to proceed then it is essential that any replacement buildings are appropriate.

There is no doubt that it would be of great benefit to Draperstown to see this part of High Street developed and brought back to life, however this must be done in a manner which is appropriate to the conservation area and prevailing policies. It is considered the proposal as it stands is contrary to the SPPS and PPS6.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Having considered all relevant prevailing planning policy, the proposal is recommended for approval subject to the conditions below.

**Reasons for Refusal:**

1. The proposal is contrary to the Magherafelt Area Plan 2015, SPPS, Draperstown Conservation Area Guide and Policy BH14 of PPS6 in that it proposes the total demolition of buildings within Draperstown Conservation Area which make a material contribution to the character and appearance of the area.

**Signature(s)**

**Date:**



**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1808/O	<b>Target Date:</b>
<b>Proposal:</b> Site of dwelling house and domestic garage CTY2A	<b>Location:</b> Rear of 39 Gortahurk Road Desertmartin
<b>Referral Route:</b>  Refusal- Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Eoighan Mc Guigan 39 Gortahurk Road Des	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



**Consultations:**

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content

**Representations:**

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

**Summary of Issues**

Contrary to Policies CTY1, CTY2a and CTY14 of PPS 21

**Characteristics of the Site and Area**

The site is located within the open countryside, in an Area of Outstanding Natural Beauty as per the Magherafelt Area plan. The red line of the site includes a small narrow section along the roadside, and extends further south rising to a level above the road level and extends behind the dwelling 39 Gortahurk Road. The site is well screened with mature tree lines along both the eastern and western boundary and meets at a point at the southern point of the field. The surrounding area is a mixture of residential, agricultural and business land uses, with a build-up of development to the north of the site. The lands raise steeply to the south.

<p><b>Representations</b></p> <p>No third party representations have been received.</p>
<p><b>Description of Proposal</b></p> <p>This is an outline planning application for a site of a dwelling house &amp; domestic garage CTY2A.</p>
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>Magherafelt Area Plan 2015 Strategic Planning Policy Statement (SPPS) PPS 21: Sustainable Development in the Countryside PPS 3: Access, Movement and Parking</p> <p>The SPPS provides a regional framework of planning policy that will be taken into account of in the preparation of Mid Ulster's Local Development Plan (LDP). At present, the LDP has not been adopted therefore transitional arrangements require the Council to take account of the SPPS and existing planning policy documents, with the exception of PPS 1, 5 and 9. Section 6.73 of the SPPS relates to development that is acceptable in the countryside, which includes new dwellings in existing clusters. Section 6.77 states that 'proposals for development in the countryside must be sited and designed to integrate sympathetically with their surroundings must not have an adverse impact on the rural character of the area, and meet other planning and environmental considerations including those for drainage, sewerage, access and road safety'.</p> <p>Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside.</p> <p>Policy CTY 1 of PPS 21 requires all proposals for development in the countryside to be sited and designed to integrate sympathetically with their surroundings and to meet other environmental considerations including those for drainage, access and road safety. A number of examples are provided in CTY 1 detailing the different cases, which would allow for planning permission in the countryside, one of these being a dwelling sited within an existing cluster of buildings in accordance with Policy CTY 2a.</p> <p>Policy CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:</p> <ul style="list-style-type: none"> <li>- <i>The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings.</i></li> </ul> <p>I am content there is a cluster of development within the locality of the site that includes 8 dwellings as identified on the site location plan. As per the policy, the outbuildings and garages identified have been discounted.</p> <ul style="list-style-type: none"> <li>- <i>The cluster appears as a visual entity in the local landscape</i></li> </ul> <p>Whilst travelling along the Gortahurk Road, the cluster appears in a visual entity in the local landscape, with the main cluster of development appearing to the north of the application site.</p> <ul style="list-style-type: none"> <li>- <i>The cluster is associated with a focal point such as a social / community building/facility, or is located at a cross-roads.</i></li> </ul> <p>The agent contends that the cluster of development is associated with a business premises highlighted in yellow on the site location. It is unclear what the business premises is operating at</p>

this location but at the time of the site visit and from ortho imagery there are a number of vehicles on and machinery on site. On balance, I am content that the business premises can be considered a focal point, which the cluster is associated with.

- *The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster.*

The redline of the application site goes around the curtilage of the dwelling at 39 which is located in the corner of the field with the majority of the application site located south of this. The site provides a suitable degree of enclosure in terms of mature trees along the boundaries of the site. However, I would the site is only bounded on one side with other development in the cluster being No.39 on part of the northern boundary and is not bounded on another side with development in the cluster, therefore failing to comply with this policy criteria.

- *Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside.*

As mentioned, the site is not bounded on at least two sides so the site cannot be absorbed into the cluster and cannot be considered being rounding off; rather it extends outside of the cluster intruding into the open countryside.

- *Development would not adversely impact on residential amenity.*

As this is an outline application, no detailed design details have been provided for a dwelling, but given the size of the application site and the surrounding area, I am content a dwelling at this location would not adversely affect residential amenity.

On the basis of the above assessment, the application fails to meet the policy criteria outlined in Policy CTY2a.

Policy CTY 13 of PPS 21 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this is an outline application, no design details have been submitted. However, I am content a well-designed dwelling at this location would not be a prominent feature in the landscape and would visually integrate into the surrounding landscape give the strong mature tree boundaries.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As the proposal cannot meet the policy criteria set out in Policy CTY2a, I believe any dwelling approved here would therefore result in the erosion of the rural character of the area. A dwelling at this location would not respect the traditional pattern of settlement exhibited in the area as it would be extending outside the existing cluster of development visible, which are mainly roadside developments.

#### PPS 3- Access, Movement and Parking:

DfI Roads were consulted on the planning application and provided conditions to be applied to any approval and that as part of any reserved matters application should show access constructed in accordance with the form RS1.

#### **Other Material Considerations**

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

September 2020. The period for Counter Representations closed on 18th December 2020. On the 28th May 2021 the Council submitted the draft Plan Strategy to DFI for them to cause and Independent Examination, In light of this, the draft Plan Strategy does not yet carry determining weight.

**Neighbour Notification Checked**

**Yes/No**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

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

The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, Sustainable Development in the Countryside in that the existing cluster of development is not bounded on at least two sides with other development within the cluster.

The proposal is contrary to Policy CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would further erode the rural character of the area.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	21st December 2021
<b>Date First Advertised</b>	11th January 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 38 Gortahurk Road Desertmartin Londonderry The Owner/Occupier, 38a Gortahurk Road Desertmartin The Owner/Occupier, 39c Gortahurk Road Draperstown The Owner/Occupier, 40 Gortahurk Road Desertmartin Londonderry	
<b>Date of Last Neighbour Notification</b>	26th January 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/2001/0329/F Proposal: Replacement Dwelling Address: 7 Keenaught Road, Desertmartin, Magherafelt Decision: Decision Date: 19.06.2001  Ref ID: H/2003/1006/O Proposal: Site of new dwelling and garage. Address: 250m North of 39 Gortnahurk Road, Draperstown. Decision: Decision Date: 23.03.2004  Ref ID: H/2005/0412/F Proposal: Proposed dwelling and garage Address: 200m North of 39 Gortahurk Road Draperstown Decision: Decision Date: 03.07.2006  Ref ID: H/2004/0784/O Proposal: Site of dwelling and garage. Address: Site 200m North of number 39 Gortnahurk Road, Draperstown. Decision: Decision Date: 18.02.2005  Ref ID: H/1988/0528 Proposal: SITE OF DWELLING	



Address: OPPOSITE 38 GORTAHURK ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: H/1989/0460

Proposal: DWELLING

Address: 29 GORTAHURK ROAD DESERTMARTIN

Decision:

Decision Date:

Ref ID: LA09/2017/1178/F

Proposal: Proposed extension to dwelling including roofspace conversion and detached double garage

Address: 41 Gortahurk Road, Desertmartin, Magherafelt,

Decision: PG

Decision Date: 23.10.2017

Ref ID: LA09/2020/0696/F

Proposal: Proposed retention of the existing general purpose / storage shed for machinery and vehicles and the extension of the existing site curtilage

Address: 55m South of No 39C Gortahurk Road, Draperstown,

Decision: PG

Decision Date: 02.09.2020

Ref ID: LA09/2020/0787/F

Proposal: Family room extension to side of dwelling with minor internal alterations

Address: 39c Gortahurk Road, Draperstown,

Decision: PG

Decision Date: 14.09.2020

Ref ID: LA09/2021/1808/O

Proposal: Site of dwelling house and domestic garage CTY2A

Address: Rear of 39 Gortahurk Road, Desertmartin,

Decision:

Decision Date:

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Submitted

### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:





## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1809/O	<b>Target Date:</b>
<b>Proposal:</b> Site for dwelling house and domestic garage CTY 2A	<b>Location:</b> Adjacent and Western boundary of 182 Glen Road Maghera
<b>Referral Route:</b>  To Committee - Refusal - Contrary to CTY 1, 2a, 8 and 14 of PPS 21.	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Miss Niamh Cavanagh 182 Glen Road Maghera	<b>Agent Name and Address:</b> Architectural Services 5 Drumderg Road Draperstown BT45 7EU
<b>Executive Summary: Refusal</b>	
<b>Signature(s): Peter Henry</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	Rivers Agency	Advice

### Representations:

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

### Summary of Issues

To Committee - Refusal - Contrary to CTY 1, 2a, 8 and 14 of PPS 21.

### Characteristics of the Site and Area

The site is located just outside the settlement of Glen and from this is located in the open countryside in accordance with the Magherafelt Area Plan 2015. The site is located Adjacent and Western boundary of 182 Glen Road, Maghera and in a small portion of a much larger agricultural field along the roadside, wherein the site rises gradually from the roadside. The immediate area is a mix of development, predominantly agricultural, with residential, Church, Fallaghloon AOH hall and Sperrin View Business Park nearby.

#### Representations

Four Neighbour notifications were sent out however no representations received in connection with this application.

## Description of Proposal

This is an outline application for a for dwelling house and domestic garage CTY 2A, the site is identified as Adjacent and Western boundary of 182 Glen Road, Maghera.

## Planning Assessment of Policy and Other Material Considerations

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherafelt Area Plan 2015  
 Mid Ulster Local Development Plan 2030 - Draft Strategy  
 Strategic Planning Policy Statement (SPPS)  
 PPS 21: Sustainable Development in the Countryside  
 PPS 3 - Access, Movement and Parking;

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

Development in the countryside is controlled under the provisions of PPS 21 Sustainable Development in the countryside. I note that this application has been applied for under CTY 2a. As such CTY 2a states that planning permission will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

With regards to the first criteria, I am content that first the cluster lies outside of a farm and consists of the Sperrin View Business Park, AOH hall and three dwellings (Nos 117a, 182 and 180). I hold the view that as No.177a lies outside the settlement limits it has minimal association with the cluster and as such can be included. It must be noted that all dwellings further east of 177a is within the development limits of Glen and would not count in this case. As a result the application complies under this part of the policy.

Furthermore I am content that the cluster appears as a visual entity wherein I am content that the AOH hall and business park are able to provide a focal point for the cluster. In terms of suitable degree of enclosure I am not content that the site is bounded on two sides with other

development within the cluster. I note that the site bounds along the eastern boundary with one dwelling where the site remains unbounded on the remaining boundaries and a dwelling in this location would extend a ribbon of development as a result. From such I am not content that there is suitable enclosure provided and the dwelling would not be absorbed within the cluster. I note that given the level of build-up of the business park and the development limits being in close proximity there is already a sub-urban feel to the area so another dwelling here would not harm the rural character as that does not exist in this location. Finally, I am content that an appropriately designed dwelling would not have an adverse impact on neighbouring amenity.

I note that no other case has been put forward by the applicant, in that there is no replacement or conversion opportunity, no farm case provided, it has been argued that it fails the infill policy as extends the ribbon of development. Finally there has been no personal and domestic circumstances provided nor any case for a dwelling for non-agricultural business.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. I note that this is only an outline application therefore there are no exact design or siting details have been provided, however, I am content that an appropriately designed dwelling will not appear as visually prominent. I note that there is existing landscaping which should be retained where possible with additional landscaping added where necessary to aid integration. Therefore a landscaping scheme will be required in any reserved matters application. Taken into consideration the landform, surrounding development and I feel it necessary to restrict the ridge height to be no more than 6m from finish floor level. From which, I am content that the application is able to comply under CTY 13.

In terms of policy CTY 14 planning permission will only be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. As stated that an appropriately designed dwelling would not appear as visually prominent. I am of the opinion that there is already a suburban style build-up of development feel to the area and that any dwelling would become part of this. In addition, a dwelling in this location would lead to the extending of a ribbon of development along the Glen Road. As such, would fail under CTY 14.

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

PPS 3 - Access, Movement and Parking;

DFI Roads were consulted and responded to state that there were content subject to conditions, I am content that this has shown compliance under PPS 3.

A consultation was also sent to Rivers Agency, in their response confirmed that the site does not lie within the 1 in 100 year fluvial or 1 in 200 year coastal flood plain. Went on to confirm that an undesignated watercourses flows along the western boundary of the site. Another undesignated watercourse flows along a short stretch of the northern boundary of the site. Under 6.32 of the policy it is essential that a working strip of minimum width 5m from the top of the bank is retained. DfI Rivers would recommend that the working strip is shown on a site layout drawing and be protected from impediments (including tree planting, hedges, permanent fencing and sheds), land raising or future unapproved development by way of a planning condition. Access to and from the maintenance strip should be available at all times. In addition by way of planning informatives, perspective purchasers whose property is affected by these designated

watercourses should be made aware of their obligations to maintain the undesignated watercourses under Schedule 5 of the Drainage Order Northern Ireland 1973.

The Flood Hazard Map (NI) indicates that the site lies within an area of predicted pluvial flooding. In accordance with revised PPS 15, Planning and Flood Risk, FLD 3, Development and Surface Water (Pluvial) Flood Risk outside Flood Plains, a Drainage Assessment is required if an additional hard surfacing exceeding 1000m<sup>2</sup> is proposed. The applicant should refer to paragraph D17 and D18 of Revised PPS 15. In carrying out the drainage assessment the applicant should acquire from the relevant authority evidence that the proposed storm water run-off from the site can be safely discharged. If the proposal is to discharge into a watercourse then an application should be made to the local DfI Rivers office for consent to discharge storm water under Schedule 6 of the Drainage (NI) Order 1973. If it is proposed to discharge storm water into an NI Water system then a Pre-Development Enquiry should be made and if a simple solution cannot be identified then a Network Capacity Check should be carried out. Correspondence with both authorities should be included in the drainage assessment regardless of outcome. If a Drainage Assessment is not required by the policy the developer should still be advised to carry out their own assessment of flood risk and construct in the appropriate manner that minimises flood risk to the proposed development and elsewhere. Given the size of the site it is unlikely for the hardstanding to exceed 1000m<sup>2</sup> as such a drainage assessment was not requested. Confirmed that FLD 4 and 5 did not apply to this site.

I have no flooding, ecological or residential amenity concerns.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure.
3. The proposal is contrary to Policy CTY8 and CTY 14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, extend a ribbon of development along the Glen Road.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	21st December 2021
<b>Date First Advertised</b>	11th January 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 177a Glen Road Maghera The Owner/Occupier, 180 Glen Road Maghera Londonderry The Owner/Occupier, 182 Glen Road, Maghera, Londonderry, BT46 5JN The Owner/Occupier, Unit 1, 181b Sperrin View Business Park, Glen Road, Maghera, Londonderry, BT46 5LT	
<b>Date of Last Neighbour Notification</b>	26th January 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2021/1809/O Proposal: Site for dwelling house and domestic garage CTY 2A Address: Adjacent and Western boundary of 182 Glen Road, Maghera, Decision: Decision Date:  Ref ID: H/1988/0207 Proposal: 11 KV OH LINE Address: FALLAGLOON MAGHERAFELT Decision: Decision Date:  Ref ID: H/1997/0644 Proposal: 11KV O/H LINE (BM/4862/97) Address: GLENSHANE ROAD OPPOSITE GLEN ROAD MAGHERA Decision: Decision Date:  Ref ID: H/2003/1301/O Proposal: Site of dwelling and garage. Address: Site at 170m West of 174 Glen Road, Maghera. Decision:	



Decision Date: 11.03.2006

Ref ID: H/1981/0194

Proposal: SITE OF HOUSE

Address: GLEN ROAD, FALLAGLOON, MAGHERA

Decision:

Decision Date:

Ref ID: H/2000/0557/O

Proposal: Site of dwelling and garage

Address: 220m east of Glenshane Road junction, Glen Road, Maghera

Decision:

Decision Date: 09.04.2001

Ref ID: H/2001/0967

Proposal: Site of dwelling

Address: Glen Road, Maghera

Decision:

Decision Date:

Ref ID: H/2009/0590/Q

Proposal: Proposed petrol filling station

Address: Lands immediately south of no.182 Glen Road, Maghera (access via Glenshane Road)

Decision:

Decision Date:

Ref ID: H/2001/0581/F

Proposal: Proposed new dwelling and garage

Address: Glen Road, Maghera, 260 metres East of Glenshane Road junction

Decision:

Decision Date: 20.11.2001

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

**Notification to Department (if relevant)**


Date of Notification to Department:

Response of Department:



**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0139/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed single storey extension to the rear and side of existing dwelling with internal alterations	<b>Location:</b> 12 Manor Close Magherafelt
<b>Referral Route:</b>  Applicant works for Mid Ulster District Council's Planning Department	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Sean and Sarah Mc Namee 12 Manor Close Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

<b>Case Officer Report</b>		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
<b>Representations:</b>		
Letters of Support	None Received	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
No issues have been identified.		
<b>Characteristics of the Site and Area</b>		
<p>The site is located within the settlement limits of Magherafelt, outside any other zonings as per the Magherafelt Area Plan 2015. The application site includes a two storey semi-detached dwelling, located at the end of the housing development known as Manor Close. The site has a garden to the front and a short driveway, which allows for in curtilage parking. The rear garden is enclosed by a wooden fence on the north western and south eastern boundaries. The south western boundary is defined by plants and a post and wire fence which separates the back garden from an agricultural field beyond. The surrounding area is mainly residential with an agricultural field beyond the rear garden.</p>		
<b>Description of Proposal</b>		
<p>This is a full planning application for a proposed single storey extension to the rear and side of existing dwelling with internal alterations.</p>		

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

Magherafelt Area Plan 2015  
Strategic Planning Policy Statement (SPPS)  
Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in 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. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

Planning Policy EXT 1 details that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) The scale, massing, design and external material of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area
- (b) The proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (c) The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
- (d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

I am content that the scale and massing of the proposal is sympathetic with the built form and appearance of the existing property. It is noted that the footprint of the proposed extension is similar to that of the existing property however; the proposed extension is a single storey. From this, I am content that the single storey element will ensure the proposed extension will not become a dominant feature or over dominate the existing dwelling. I am content that the proposed design and external materials will be sympathetic with the existing property and will not detract from the appearance and character of the surrounding area.

I am content that the proposal does not unduly affect the privacy or amenity of neighbouring residents. The neighbouring property to the north of the site will be unaffected given the strong boundary between the two properties and the distance between the dwellings. The adjoining property (No.11) is the one, which may be impacted by the development. However, the plans show the angle from the mid point of the nearest window of the adjoining property and indicates that the single storey extension will not have an impact in terms of loss of light or overlooking. The proposed extension is set far enough back from the boundary as to ensure the neighbouring property will not be unduly affected. I have no concerns the proposed extension would affect the privacy of the neighbouring property.

The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features, which contribute significantly to local environmental quality. The plans indicate the existing boundaries are to be retained.

Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles. The car parking at the site and front garden will be unaffected by the proposed extension. Sufficient space remains at the rear of the property.

### **Other Material Considerations**

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

September 2020. All valid representations received will be subject to a Counter Representation period. In light of this, the draft plan does not carry the determining weight associated with the adopted plan.	
<b>Neighbour Notification Checked</b>	<b>Yes/No</b>
<b>Summary of Recommendation:</b>	
Approval.	
<b>Conditions</b>	
<p>1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.</p> <p>Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.</p> <p>Informatives</p> <p>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.</p> <p>2. This approval does not dispense with the necessity of obtaining the permission of the owners of adjacent dwellings for the removal of or building on the party wall or boundary whether or not defined.</p>	
<b>Signature(s)</b>	
<b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	2nd February 2022
<b>Date First Advertised</b>	15th February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b>	
<p>The Owner/Occupier, 10 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 11 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 12 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 12a Manor Close Magherafelt</p> <p>The Owner/Occupier, 14 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 6 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 7 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 8 Manor Close Magherafelt Londonderry</p> <p>The Owner/Occupier, 9 Manor Close Magherafelt Londonderry</p>	
<b>Date of Last Neighbour Notification</b>	24th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<p>Ref ID: LA09/2022/0139/F            Proposal: Proposed single storey extension to the rear and side of existing dwelling with internal alterations            Address: 12 Manor Close, Magherafelt,            Decision:            Decision Date:</p> <p>Ref ID: H/1993/0558            Proposal: ROADS LAYOUT AND DWELLING            Address: KILLYFADDY ROAD MAGHERAFELT            Decision:            Decision Date:</p> <p>Ref ID: H/1993/0248            Proposal: SITE OF HOUSING DEVELOPMENT            Address: KILLYFADDY ROAD MAGHERAFELT</p>	

Decision:  
Decision Date:

Ref ID: H/1993/6101  
Proposal: HOUSING DEVELOPMENT KILLYFADDY ROAD MAGHERAFELT  
Address: KILLYFADDY ROAD

Decision:  
Decision Date:

Ref ID: H/1995/0088  
Proposal: 6 NEW DWELLINGS AND GARAGES  
Address: SITE NO'S 11,12,13,14,15+16 MANOR CLOSE MANOR PARK MAGHERAFELT  
Decision:  
Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

Drawing No. 02  
Type: Site Location Plan  
Status: Submitted

Drawing No. 03  
Type: Existing Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:





**Development Management Officer Report  
Committee Application**

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2022/0171/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement extension to the rear to accommodate kitchen, bathroom and bedroom	<b>Location:</b> 116 Church Street Cookstown
<b>Referral Route:</b>  Agent is an employee of Mid Ulster District Council	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Martin O'Hare 240 Drum Road Cookstown BT80 9HP	<b>Agent Name and Address:</b> PDC Chartered Surveyors 52 Tullyreavy Road Cookstown BT70 3JJ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

**Case Officer Report**

**Site Location Plan**



**Consultations:**

Consultation Type	Consultee	Response
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**Representations:**

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

**Summary of Issues**

No issues have been identified.

**Characteristics of the Site and Area**

The site is located within the settlement limits of Cookstown, outside any other designations as per the Cookstown Area Plan. The building is an end terrace dwelling and at the time of the site visit appears to be vacant. At the front of the building is a yard which appears to be used for parking for the three dwellings. Access to the rear of the dwelling is made via a shared alleyway to the north, which leads to the back of the three dwellings. At the rear of the dwelling, it appears a rear return has been removed and the rear of the site has been cleared. The dwelling adjacent to the north has a rear return and outbuildings which run along the boundary wall between the two properties. The surrounding area is residential in use.

**Description of Proposal**

This is a full planning application for a proposed replacement extension to the rear to accommodate kitchen, bathroom & bedroom.

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

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

Addendum to PPS 7- Residential Extensions and Alterations

The SPPS provides a regional framework of planning policy that will be taken into account of in 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. Paragraph 6.137 of the SPPS advises that residential extensions should be well designed.

Planning Policy EXT 1 details that planning permission will be granted for a proposal to extend or alter a residential property where all of the following criteria are met:

- (a) The scale, massing, design and external material of the proposal are sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area
- (b) The proposal does not unduly affect the privacy or amenity of neighbouring residents;
- (c) The proposal will not cause the unacceptable loss of, or damage to, trees or other landscape features which contribute significantly to local environmental quality; and
- (d) Sufficient space remains within the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

I am content that the scale and massing of the proposal are sympathetic with the built form and appearance of the existing property and will not result in the proposed works over dominating the existing dwelling. The proposal is for a two storey rear return, with a flat roof rather than a pitched roof at the back. It proposes to extend a similar length and height to the rear return of the adjoining dwelling; I am content this will not result in loss of light or overshadowing. The proposed finishes to the extension are to match the finishes of the main dwelling. Overall, I am content the proposal is sympathetic with the built form and appearance of the existing property and will not detract from the appearance and character of the surrounding area.

The proposal does not unduly affect the privacy or amenity of neighbouring residents. There will be no issues with overlooking or amenity. It will not cause the unacceptable loss of, or damage to, trees or other landscape features, which contribute significantly to local environmental quality.

The proposal is for a relatively small rear extension and includes the removal of outbuildings at the rear. As a result, sufficient space will remain with the curtilage of the property for recreational and domestic purposes including the parking and manoeuvring of vehicles.

**Other Material Considerations**

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

**Neighbour Notification Checked****Yes/No****Summary of Recommendation:**

Approval

**Conditions**

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

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

**Informatives**

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

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th February 2022
<b>Date First Advertised</b>	22nd February 2022
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)	
<p>The Owner/Occupier, 10 Killymoon Road Cookstown Tyrone</p> <p>The Owner/Occupier, 112 Church Street Cookstown Tyrone</p> <p>The Owner/Occupier, 114 Church Street Cookstown Tyrone</p> <p>The Owner/Occupier, 118 Church Street Cookstown Tyrone</p> <p>The Owner/Occupier, 12 Killymoon Road Cookstown Tyrone</p> <p>The Owner/Occupier, 120 Church Street Cookstown Tyrone</p> <p>The Owner/Occupier, 14 Killymoon Road Cookstown Tyrone</p> <p>The Owner/Occupier, 2 Killymoon Road Cookstown Tyrone</p> <p>The Owner/Occupier, 4 Killymoon Road Cookstown Tyrone</p> <p>The Owner/Occupier, 6 Cooke Crescent Cookstown Tyrone</p> <p>The Owner/Occupier, 6 Killymoon Road Cookstown Tyrone</p> <p>The Owner/Occupier, 8 Cooke Crescent Cookstown Tyrone</p> <p>The Owner/Occupier, 8 Killymoon Road Cookstown Tyrone</p>	
<b>Date of Last Neighbour Notification</b>	25th February 2022
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<p>Ref ID: I/2008/0606/F            Proposal: Proposed alteration to existing showroom            Address: 112A Church Street, Cookstown            Decision:            Decision Date: 25.09.2009</p> <p>Ref ID: I/1986/0429            Proposal: PIGEON LOFT</p>	

Address: 8 COOKE CRESCENT, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/1992/4067  
Proposal: Extension and Alterations to Dwellings  
Address: COOKE CRESCENT COOKSTOWN  
Decision:  
Decision Date:

Ref ID: I/2007/0088/F  
Proposal: Proposed extension to rear of dwelling.  
Address: 2 Killymoon Road, Cookstown.  
Decision:  
Decision Date: 16.07.2007

Ref ID: I/1986/0147  
Proposal: EXTENSION AND ALTERATION TO DWELLING  
Address: 8 KILLYMOON ROAD, COOKSTOWN  
Decision:  
Decision Date:

Ref ID: LA09/2022/0171/F  
Proposal: Proposed replacement extension to the rear to accommodate kitchen, bathroom and bedroom  
Address: 116 Church Street, Cookstown,  
Decision:  
Decision Date:

Ref ID: LA08/2018/0155/DC  
Proposal: Discharge of Condition No. 27 (Construction Method Statement) of Planning Permission LA08/2016/1328/F - Gas to the West (IP Crossing of the Seskinore River, Corkhill Road)  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press  
Decision: AL  
Decision Date:

Ref ID: LA08/2018/1710/DC  
Proposal: Discharge of Condition 29 (Construction Method Statement) of Planning Permission LA08/2016/1328/F  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press  
Decision: AL  
Decision Date:

Ref ID: LA08/2019/1403/DC  
Proposal: Discharge of condition 24 of planning permission LA08/2016/1328/F  
Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press  
Decision:  
Decision Date:

Ref ID: LA08/2019/0022/DC

Proposal: Discharge of Condition 5 (works affecting A5WTC preferred route) of planning permission LA08/2016/1328/F

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2017/1126/DC

Proposal: Discharge of Condition 2 (programme of archaeological work) of planning approval LA08/2016/1328/F.

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Pressu

Decision: AL

Decision Date:

Ref ID: LA08/2018/0965/DC

Proposal: Discharge of Condition 4 (Traffic Management Plan) of planning permission LA08/2016/1328/F - Gas to the West. (HP Line - RDX80: Ballagh Road section)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2016/1328/F

Proposal: Construction of an underground gas pipe line and associated infrastructure comprising: a new 85 bar High Pressure (HP) cross-country gas transmission pipeline, approximately 78km in length and varying between 300-400mm diameter; New Intermediate Pressure (IP) gas pipelines, (approximately 107km and varying between 250-315mm diameter) laid primarily in the public road, 7 Above Ground Installations (AGI) and 8 District Pressure Governors (DPG); temporary ancillary development comprising temporary construction compounds, temporary pipe storage areas and temporary construction accesses.

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: PG

Decision Date:

Ref ID: LA08/2018/1354/DC

Proposal: Ecological Monitoring Report relating to Condition 24 of Planning Permission LA08/2016/1328/F

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision:

Decision Date:

Ref ID: LA08/2018/0964/DC

Proposal: Discharge of Condition 4 (Traffic Management Plan) of Planning Permission LA08/2016/1328/F - Gas to the West (HP Line - RDX19: Pedan's Road Section)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2018/0146/DC

Proposal: Discharge of Condition 21 (Habitat Management Plan) of Planning Permission LA08/2016/1328/F - Gas to the West (Traditional Orchard locations)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2018/0157/DC

Proposal: Discharge of Condition No. 27 (Construction Method Statement) of Planning Permission LA08/2016/1328/F - Gas to the West (IP Crossing of Colebroke River, Maguiresbridge)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2017/1016/DC

Proposal: Discharge of Conditions 20 (CEMP), 21 (HMP) and 22 (ECOW) of planning permission LA08/2016/1328/F.

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2018/0156/DC

Proposal: Discharge of Condition No. 27 (Construction Management Statement) of Planning Permission LA08/2016/1328/F - Gas to the West. (Quiggery Stream, Corkill Road)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2018/1467/DC

Proposal: Discharge of Condition 29 (Construction Method Statement) of Planning Permission LA08/2016/1328/F

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: RL

Decision Date:

Ref ID: LA08/2017/1352/DC

Proposal: Discharge of Condition 15 of planning permission LA08/2016/1328/F.



Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2017/1619/DC

Proposal: Discharge of Condition 27 (Construction Method Statement) of planning permission LA08/2016/1328/F (G2W) - (Off road - IP Crossing - Colebrook River, Maguiresbridge)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: RL

Decision Date:

Ref ID: LA08/2018/1422/DC

Proposal: Discharge of condition 5 (works affecting the A5 preferred route) of planning permission LA08/2016/1328/F

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

Ref ID: LA08/2018/0145/DC

Proposal: Discharge of Condition 21 (Habitat Management Plan) of planning permission LA08/2016/1328/F - Gas to the West. (3 areas of Purple Moor Gass and Rush Pasture)

Address: High Pressure (HP) gas transmission pipeline (approx. 78km in length) between the proposed Above Ground Installation (AGI) opp. 64 Derryhale Rd, Derryhale, Portadown and 300m NW 371 Belfast Rd, Tullykenneye, Fivemiletown. Intermediate Press

Decision: AL

Decision Date:

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

Drawing No. 02  
Type: Block/Site Survey Plans  
Status: Submitted

Drawing No. 03  
Type: Existing Plans  
Status: Submitted

Drawing No. 04  
Type: Proposed Plans  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2020/1476/O	<b>Target Date:</b>
<b>Proposal:</b> New dwelling and garage	<b>Location:</b> Between 21 and 23 Iniscarn Road, Moneymore
<b>Applicant Name and Address:</b> FJS Contracts Ltd 12a Gortahurk Road Magherafelt	<b>Agent name and Address:</b> CMI Planners 38 Airfield Road Toome BT41 3SG
<b>Summary of Issues:</b>  Two letters of objection were received to the planning application and these were considered by Members at the Planning Committee in June 2021. The issues raised were <ul style="list-style-type: none"><li>- Impact on privacy of neighbouring dwellings;</li><li>- P2 challenge;</li><li>- Adverse impact on Slieve Gallion as an area of High Scenic Value;</li><li>- The proposal is contrary to CTY8 and would result in a ribbon of development;</li><li>- Impact on local wildlife;</li><li>- Inadequate sight lines;</li><li>- Devaluation of neighbouring dwellings;</li></ul> In response to these concerns; <ul style="list-style-type: none"><li>- A dwelling could be designed to overcome privacy concerns;</li><li>- We have received confirmation from O’Kane Boyle solicitors the applicant owns the land and a land registry map was attached.</li><li>- A dwelling can be designed to integrate at this location;</li><li>- There are no natural heritage assets identified of significance;</li><li>- DfI Roads accept the visibility splays can be provided;</li><li>- The value of dwellings is not a material consideration.</li></ul>	

**Summary of Consultee Responses:**

No objections

**Characteristics of the Site and Area:**

The proposed site comprises part of a small grass field located between Nos 21 and 23, both detached dwellings with detached garages to the side and rear. The site topography elevates in a northerly direction where the plot size is similar to the other established sites with an accesses via a field gate on the public road. Site boundaries comprise mature trees and low level vegetation on the north and east; post and wire fencing and sporadic vegetation on the west and post and wire fencing with sporadic hedgerow on the south boundary (running parallel with the Iniscarn Road. The surrounding landform is one of undulating countryside with farms and individual dwellings scattered throughout the area.

**Description of Proposal**

This application is for a new dwelling and garage

**Deferred Consideration:**

This application was presented before the Planning Committee in June 2021 with a recommendation to refuse and Members agreed for the application to be deferred for an office meeting with the Service Director. Following the office meeting I have carried out an inspection of the site.



In terms of Policy CTY policy allows for an exception to be made for the development of a small gap site within an otherwise substantial and continuously built up frontage, which for the purposes of this policy is a line of 3 or more buildings along a road frontage without

accompanying development to the rear. Having visited the site I do not consider that No 23 has a frontage to the road. The dwelling is set back from the road and does not have a garden to the road frontage. It is accessed along a private lane with a small grassed area between the site and the private laneway. The dwelling at No 23 was approved in 1995 and this grassed area was not included in the curtilage of the approved plans.

I do not consider this site merits to be considered as an infill site and is therefore contrary to Policies CTY 8 and CTY 14 and I recommend a refusal based on the reasons below.

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along xx Road further eroding the rural character of this area.

**Signature(s):**

**Date**



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

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2020/1476/O	<b>Target Date:</b>
<b>Proposal:</b> New dwelling and garage	<b>Location:</b> Between 21 and 23 Iniscarn Road Moneymore
<b>Referral Route:</b>  2 letters of objections  Proposed development is contrary to Policy CTY8 of PPS 21	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> FJS Contracts Ltd 12a Gortahurk Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road Toome BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection

### Representations:

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues

Neighbour Notifications and press advertisement has been carried out in line with the Council's statutory duty. No third-party representations have been received. All other material considerations have been addressed within the determination within the report.

### Characteristics of the Site and Area

The proposed site comprises part of a grass field sandwiched between Nos 21 and 23 both detached modern dwellings with garages to the side and rear. The site topography elevates in a northerly direction where the plot size is similar to the other established sites. The proposed access involves the construction of a new access on the public road. Site boundaries comprise mature trees and low level vegetation on the north and east; post and wire fencing and sporadic vegetation on the west and post and wire fencing with sporadic hedgerow on the south boundary

(running appavelled with the Iniscarn Road. The surrounding landform is one of undulating countryside with farms and individual dwellings scattered throughout the area.

## Description of Proposal

The applicant is seeking outline planning permission for a dwelling and garage between 21 and 23 Iniscarn Road, Moneymore. No details surrounding design or landscaping associated with the proposal have been submitted with this application which relates to outline planning consent only. The proposal involves alterations to an existing lane that accesses.

All planning application forms, drawings, letters etc. relating to this planning application are available to view on [www.planningni.gov.uk](http://www.planningni.gov.uk)

## Site History

Reference	Location	Proposal/Complaint	Status	Date
LA09/2020/1476/O	Between 21 and 23 Iniscarn Road, Mo	New dwelling and garage	VALID APPLICATION RECEIVED	
H/2002/0675/O	Adjacent to 23 Iniscarn Road, Moneymr	Site of Dwelling	APPEAL DISMISSED	
H/1995/0527	INISCARN ROAD MONEYMORE	DWELLING AND GARAGE	PERMISSION GRANTED	
H/2003/0665/O	Iniscarn Road, Moneymore.	Site of dwelling and garage.	APPLICATION WITHDRAWN	21.02.2005
2003/A057	Adjacent to 23 Iniscarn Road, Moneymr		APPEAL DISMISSED	30.09.2003

## Consultees

1.DFI Roads were consulted in relation to access, moving and parking arrangement and have responded with no objection subject to standard conditions and informatives, which I am satisfied the proposal will comply with the provisions of Planning Policy Statement 3 Access, Movement and parking.

2. NI Water were consulted and responded with no objections subject to standard informatives.

## Design and Access Statement

The agent submitted a Design and Access Statement – the site is located within an Area of High Scenic Value

## Representations

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty as set down in Article 8 (2) of the Planning GDPO Regulations (NI) 2015. At the time of writing 2 letters of objection were received. This application was initially advertised in the local press on w/c 7th December 2020 (publication date 8th December 2020). Five (5) neighbouring properties were notified on 15th December



2020; all processes were in accordance with the Development Management Practice Note 14 (April 2015).

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

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

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

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

1. Strategic Planning Policy Statement (SPPS);
2. Regional Development Strategy 2035;
3. Magherafelt Area Plan 2015;
4. PPS 21 Sustainable Development in the Countryside (CT8, CTY 13 & 14);
5. PPS 3 Access, Movement and Parking & DCAN 15 vehicular Standards; and
6. Building on Tradition A sustainable design guide for rural NI.

#### Magherafelt Area Plan 2015

The site lies in the rural countryside and outside any designated settlement limits as depicted in the MAP 2015.

#### The Strategic Planning Policy Statement for Northern Ireland.

The Strategic Planning Policy Statement for Northern Ireland (SPPS) introduced in September 2015 is a material consideration in determining this application. The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS, which advises that the policy provisions of Planning Policy Statement Sustainable Development in the Countryside.

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

The applicant seeks outline approval for the development of a small gab site in accordance with Policy CTY8 of PPS21.

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

The site sits between Nos 23 to west and 21 to the east. It is noted that within the curtilage of No 21 are 2 outbuildings (garage and a smaller second shed) located to the side and rear. Whilst I acknowledge that there are three buildings within the curtilage of No 21. That said, the curtilage of No 23 is setback from the road and is accessed by a driveway with a small strip of grass area abutting the Iniscarn Road.

I am not persuaded that No 23 is read as a roadside frontage in accordance with the spirit of Policy CTY8. It is noted that the proposed site cuts across the southern boundary of the garden to No 23, which reinforces that the curtilage of No 23 does form part or a substantial and continuously built up frontage. I am not satisfied that No 23 does not 'book end' the dwelling to the west No 21 and therefore fails Policy CTY8.



Fig. 1 Aerial photograph.



Fig. 2 No shows No 23 set back in the distance from Iniscarn Road

### Objections

Two letters of objection were received dated 19th and 22 December 2020 representing Nos 21 and 23 Iniscarn Road, Moneymore.

### Summary of the objections are as follows:

1. The proposed development would severely affect privacy;
2. Concerns raised the applicant is not the landowner;
3. Concerns raised that further development would adversely impact Slieve Gallion as an area of "High Scenic Value";
4. Concerns raised that the proposed development is contrary to Policy CTY8 of PPS21 and would create Ribbon Development;
5. Concerns raised on the conservation if one more dwellings are built this would result in the removal of trees and hedges, the area is home to the mountain hares, red grouse;
6. Concerns raised that sight- lines on the plan indicate 60m, which is not enough under current regulation;
7. Concerns raised relate to privacy and potential devaluation of existing properties; and
8. Concerns that the proposed dwelling if permitted, would be directly in front of No 23.

In response to the above concerns it is noted valuation of properties are considered non-planning concerns. Those matters that are considered material would be accessed against the relevant policies for example, siting and landscaping on the character of the area are accessed under Policies CTY13 and CTY 14 of PPS21.

Concerns were raised relating to an infill approval between 21 and 23. However, a search of the planning history shows that a replacement under H/2009/0165/O was approved north of No 21.

In response to point 2 – a letter was received by email dated 1<sup>st</sup> April 2021 from O’Kane Boyle solicitors acting on behalf of the applicant that confirms that FJS Contracts Limited are the landowners of lands at Iniscarn Rd. Attached to the letter is a copy of Land Registry for folio LY68480 which is outlined in red.

In response to point 6 - DFI Roads have not objected subject to complying with RS1 visibility splays 2.4m X 60m.

Checks carried out on the Planning Portal Historic Environment Division (HED) and Natural Environment Division (NED) map viewers available online identified no built heritage assets or natural heritage features of significance on site.

NI Flood Maps have been checked and no flooding issues have been identified.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal as the site is not in my opinion located within an otherwise substantial and continuously build up frontage i.e. a line of 3 or more buildings running along Iniscarn Road, without accompanying development to the rear. This will result in the creation of ribbon development leading to further erosion of rural character

**Reasons for Refusal:**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary Policy CTY8 and CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the extension of ribbon development along Iniscarn Road further eroding the rural character of this area.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	20th November 2020
<b>Date First Advertised</b>	8th December 2020
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 21 Iniscarn Road Moneymore Londonderry Samantha & Owen O'Kane 21, Iniscarn Road, Moneymore, Londonderry, Northern Ireland, BT45 7RH The Owner/Occupier, 23 Iniscarn Road Moneymore Londonderry Mark Kelly Email Address Mark Kelly	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2020/1476/O Proposal: New dwelling and garage Address: Between 21 and 23 Iniscarn Road, Moneymore, Decision: Decision Date:  Ref ID: H/2002/0675/O Proposal: Site of Dwelling Address: Adjacent to 23 Iniscarn Road, Moneymore Decision: Decision Date:  Ref ID: H/1995/0527 Proposal: DWELLING AND GARAGE Address: INISCARN ROAD MONEYMORE Decision: Decision Date:	

Ref ID: H/2003/0665/O  
Proposal: Site of dwelling and garage.  
Address: Iniscarn Road, Moneymore.  
Decision:  
Decision Date: 21.02.2005

**Summary of Consultee Responses**

Content

**Drawing Numbers and Title**

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Phelim Marrion	
<b>Application ID:</b> LA09/2021/0319/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed change of house type as approved in M/2004/0778/F from a detached to a pair of semi-detached on site 2	<b>Location:</b> Opposite 114 Killyliss Road Eglish Dungannon
<b>Applicant Name and Address:</b> TG Developers Ltd TG Developers Ltd 4 Stiloga Road Eglish Dungannon BT71 7DW	<b>Agent name and Address:</b> J Aiden Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Summary of Issues:</b> The private amenity space for one of the houses is not located to the rear of the building line, it is proposed to enclose it with high screen walls to protect the privacy.	
<b>Summary of Consultee Responses:</b>  DFI Roads – proposal will require amendments to the adoption of the roads	
<b>Characteristics of the Site and Area:</b>  The site lies within the settlement limits of Eglish, also within the new development of Shanmoy Downs but outside all other areas of constraint as depicted by the DSTAP 2010. The red line of the site includes a plot of land at the beginning of the site which has planning approval for a detached dwelling as part of the overall scheme. The access is taken from the main Eglish road just between the chapel walls and the existing farm yard to the south. The access has been kerbed with a footpath in place and the first dwellings along the sides of the entrance have been built.	



The land to the west has been cleared in preparation for the construction of the approved dwellings, the chapel and graveyard are situated to the north, there is also a mix of house types surrounding the site to the north and east and to the south there is the exiting farm holding.

### Description of Proposal

The proposal seeks full planning permission for the erection of a pair of semi-detached dwellings on the site for one detached dwelling within Shanmoy Downs which was previously approved for housing under planning application M/2004/0778/F.

M/2004/0778/F granted permission for a residential development comprising 47 dwellings on the 12.10.2010.

### Deferred Consideration:

This application was before the committee in November 2021 and was deferred to consider the requirements of PPS7 Quality Residential Environments and the Guidance in Creating Places.

A meeting was held with the Planning Manager on 18 November and the issues in respect of the private amenity space were discussed.

Following the meeting information was provide that shows the existing approved development and the proposed development. The approved development is a large 2 storey house with a 2 storey rear return that fills the site. It has a frontage of 13 metres along the cul de sac and site much further forward of the building line than the proposed development. (See fig 1 and 2)



Fig 1 Approved layout and proposed layout





Fig 2 Approved elevations and proposed elevations

As a consequence, I consider the proposed development has less of a visual impact and effect on the appearance of the cul-de-sac than the approved. The application proposes a 2 mere high screen wall and landscaping to soften the impact of the screen wall in the overall development. Taking account of the mass and bulk of the approved development, it is my opinion that the proposed development will have less of a dominant effect on the overall appearance of this cul de sac, will give the impression of a less crowded development and provides symmetry to the approach to the cul de sac entrance.

Creating Places advocates that within new greenfield housing developments, there should be private amenity space behind the building line. In this case there are a number of factors that need to be carefully considered. The approved development is larger and more dominant than the proposed development which will, as I have stated, give the impression of a less crowded development. There is a footpath that will provide a continuous link for pedestrians that avoids the Chapel Corner where there is a gap in the footpath provision and a narrowing of the road between the gable wall of McCanns shop and the graveyard wall. These visual amenity and pedestrian safety issues will, in my opinion, justify setting aside the guidance in relation to private amenity space set out in Creating Places for this one dwelling on the corner of the entrance to this cul de sac.

Dfi Roads were consulted in respect of an amendment to the Private Streets Determination for this development. They have requested amended drawings to show other development that is not part of this application and a 2 metres service strip, where previous drawings were approved with a 1 metres strip. These are matters that can be dealt with by DFI Roads Section office and the developer on site and I recommend a condition that these matters are agreed with DFI Roads prior to the occupation of any of the dwellings hereby approved.

NI Water have advised there is no capacity in Eglisish WWTW for servicing any new developments. The proposal here will result in the creation of an additional unit which must provide its own treatment of waste. The developer has already approved a temporary on site waste water treatment plant as there have been additional dwellings approve within the development. As the WWTW has been approved I consider it appropriate to attach a condition that requires the developer to either connect these houses into the temporary works or provide written agreement with NI Water to connect into their network.

In light of all of the above, I recommend this application is approved with the conditions set out below.

**Conditions:**

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

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

2. Prior to the occupation of any of the dwellings hereby approved, the developer shall provide the Council with a written agreement from DFI Roads for the amendments to the road layout and access positions for these dwellings.

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

3. Prior to the occupation of any of the dwellings hereby approved, the developer shall provide the footpath connection from this development to Killyliss Road as approved under application LA09/2020/1371/F.

Reason: In the interests of pedestrian safety.

4. Prior to the occupation of any of the dwellings hereby approved, the developer shall provide all hard and soft landscape works as set out on drawing No 01/A 2 bearing the stamp dated 26 JAN 2022 and drawing No 04 bearing the stamp dated 28 JAN 2022 and in accordance with the appropriate British Standard or other recognised Codes of Practise. Any tree shrub or pant dying within 5 years of planting shall be replaced in the same position with a similar size, species and type.

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

5. Prior to the occupation of any of the dwellings hereby approved, the developer shall connect these dwellings to the WWTW approved under application LA09/2018/0559/F or provide the Council with a written agreement from NI Water to allow them to be connected into their network.

Reason: To prevent pollution from Eglis WWTW plant which NI Water have indicated cannot accommodate new developments.

**Signature(s):**

**Date**

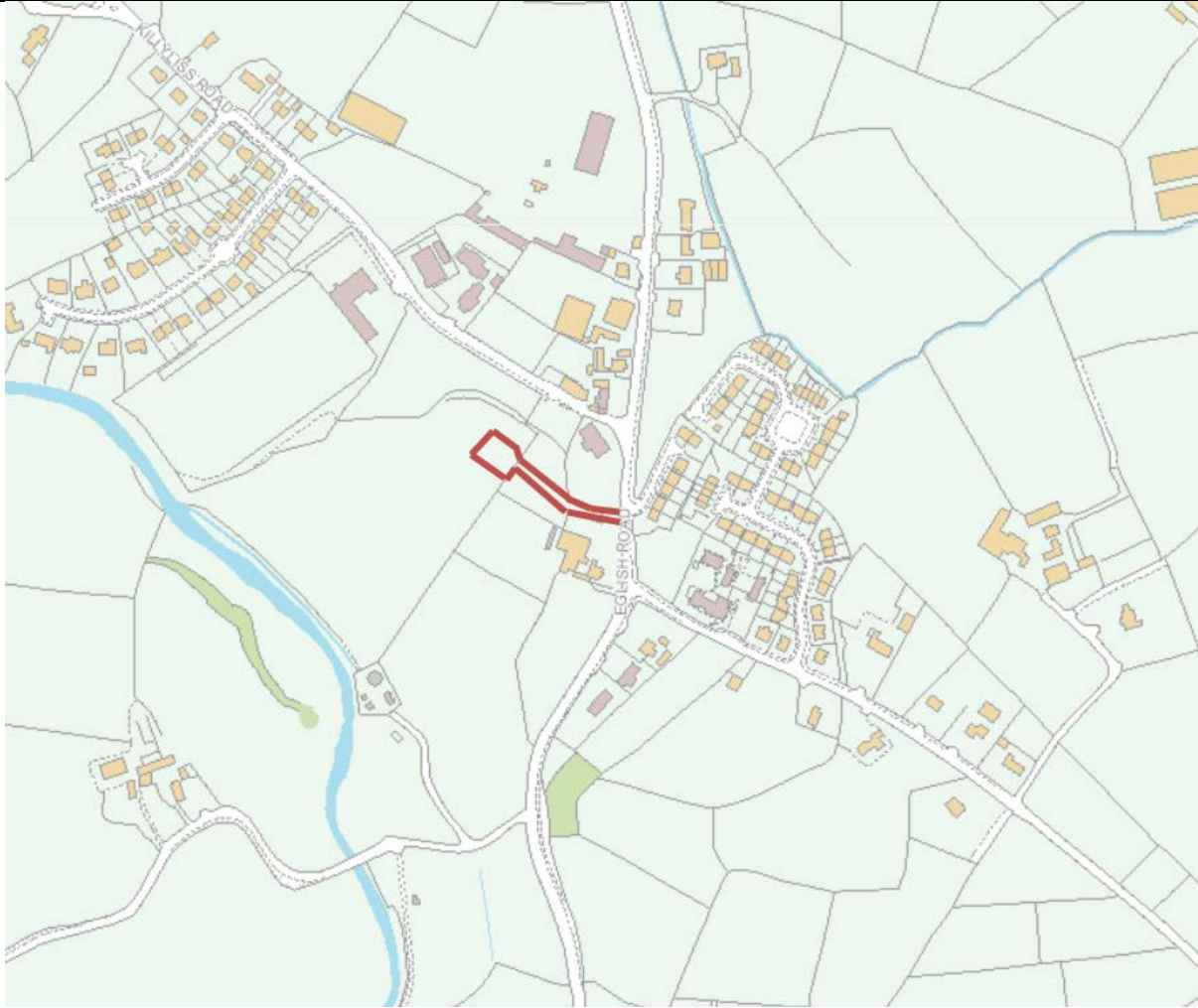


## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/0319/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed change of house type as approved in M/2004/0778/F from a detached to a pair of semi-detached on site 2	<b>Location:</b> Opposite 114 Killyliss Road Eglisish Dungannon
<b>Referral Route:</b> Contrary to policy	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> TG Developers Ltd TG Developers Ltd 4 Stiloga Road Eglisish Dungannon BT71 7DW	<b>Agent Name and Address:</b> J Aiden Kelly Ltd 50 Tullycullion Road Dungannon BT70 3LY
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

None

## Characteristics of the Site and Area

The site lies within the settlement limits of Eglish, also within the new development of Shanmoy Downs but outside all other areas of constraint as depicted by the DSTAP 2010.

The red line of the site includes a plot of land at the beginning of the site which has planning approval for a detached dwelling as part of the overall scheme. The access is taken from the main English road just between the chapel walls and the existing farm yard to the south. The access has been kerbed with a footpath in place and the first dwellings along the sides of the entrance have been built.



The land to the west has been cleared in preparation for the construction of the approved dwellings, the chapel and graveyard are situated to the north, there is also a mix of house types surrounding the site to the north and east and to the south there is the existing farm holding.

## Description of Proposal

The proposal seeks full planning permission for the erection of a pair of semi-detached dwellings on the site for one detached dwelling within Shanmoy Downs which was previously approved for housing under planning application M/2004/0778/F.

M/2004/0778/F granted permission for a residential development comprising 47 dwellings on the 12.10.2010.



## Planning Assessment of Policy and Other Material Considerations

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

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

?Dungannon and South Tyrone Area Plan 2010

?Strategic Planning Policy Statement for Northern Ireland

?Planning Policy Statement 7 - Quality Residential Environments

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

?Planning Policy Statement 3 - Access, Movement and Parking

?DCAN 8 - Housing in Existing Urban Areas

?Parking Standards

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

### Representations

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

### Planning History

M/2004/0778/F -- Proposed residential development of 47 dwellings - opposite 114 Killyliss Rd, Eglisli - Granted 12.10.2010.

M/2015/0085/F - Proposed 3no. of detached dwellings - 35m north of 141 Eglisli Road, Eglisli - Granted 13.10.2017.

The above application relates to three dwellings approved to either side of the access road to serve the dwellings approved under M/2004/0778/F.

### Consultees

Transport NI were consulted and have asked for several amendments, the most recent response stated;

As previously advised on the 18 May 2021. - A 2 metre wide service strip should be provided adjacent to carriageway edge - Road No 2. Still to be addressed.

As previously advised on the 18 May 2021. - Road No 2 should be completely coloured not partially as currently depicted. Still to be addressed.

In light of my impending recommendation to refuse I have not pursued these amendments.

### Assessment

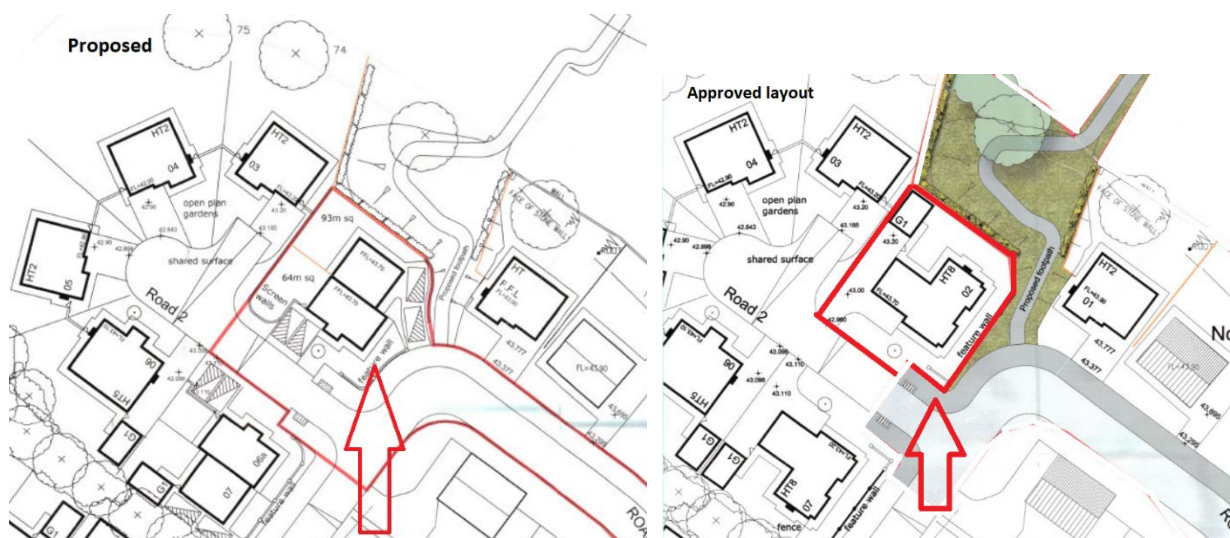
Dungannon and South Tyrone Area Plan 2010 ? The site is located within the development limits of the village of Eglisli as defined in the Area Plan. Policy SETT 1 of the Plan permits development within Eglisli provided the scale, layout and detailed design are compatible with the scale and character of the settlement. Residential development in excess of 15 units will not normally be permitted. All residential proposals should be guided and informed by the traditional built forms in the locality. They should reflect the essentially rural character of the settlement and not lead either individually or cumulatively to large scale suburban estate layouts. The use of designs and materials unrelated to the surrounding rural locality will not be acceptable. The

proposal under consideration is to replace one detached property approved under planning application M/2004/0778/F with a pairs of semi-detached houses. As the site is not specifically zoned for housing there are no key site requirements to be adhered to.

Strategic Planning Policy Statement (SPPS) for Northern Ireland - The SPPS has superseded Planning Policy Statement 1 (General Principles). The SPPS advises that planning authorities should simultaneously pursue social and economic priorities alongside the careful management of our built and natural environment for the overall benefit of our society. Its guiding principles is that sustainable development should be permitted, having regard to the development plan and all other material considerations, unless the proposed development will causes demonstrable harm to interests of acknowledged importance. I am satisfied that this development will not negatively impact on the built or natural environment nor will it harm interests of acknowledged importance, however I have concerns that the proposal may cause harm to neighbouring amenity and I will assess that within the report.

The SPPS gives provision for Housing in Settlements subject to a number of policy provisions. It does not present any change in policy direction with regard to residential development in settlements. As such, existing policies will be applied.

Planning Policy Statement (PPS) 3 - Access, Movement and Parking - Policy Amp 1 of PPS 3 (Creating an Accessible Environment) aims to create a more accessible environment for everyone. And Policy Amp 2 of PPS 3 (Access to Public Roads) permits direct access onto a public road where road safety is not prejudiced, traffic flow is not inconvenienced and where the proposal does not conflict with a protected route.



Planning Policy Statement (PPS) 7 - Quality Residential Environments - PPS 7 is the relevant material planning policy for this type of development within a settlement. All proposals for residential development will be expected to conform to a number of criteria laid out in the PPS7. I am NOT content that this proposal conforms to these criteria.

The design of the two dwellings being sought are not dissimilar to that already approved within the overall site and therefore the design of the proposed will be in keeping with the approved development and surrounding area.

Footway links are provided to the front of the site. These will support walking or cycling into the village, which can be accessed further via a footpath at the opposite side of the entrance to the

site. This new foot path will provide a link between the development and the nearby Killyliss development.

I am content that the proposed changes should not create conflict with adjacent land uses.

I am concerned that the proposed properties may however, cause an unacceptable degree in terms of overlooking, loss of light or overshadowing. It is my opinion that the proposed pair of semis within this confined site, and the use of a high screen wall back by planting to provide amenity to the side of the dwelling is not acceptable. As there is no rear private amenity space, this enclosed area to the side will be a 'back garden' that is overlooked by the cul-de-sac and it also closes off what was an area of open space. My concerns are that this is effectively shoehorning in another house. Within this development there are still 48 dwellings to be built some of which have already been changed from detached to semi-detached where they were appropriate and also had their amenity space protected, due to the location of this one I would have serious concerns.

On the basis of the above assessment it is my opinion that the proposal fails the criteria set out in policy QD 1 of PPS 7.

PPS 7 (Addendum) Safeguarding the Character of Established Residential Areas

Policy LC 1 - Protecting Local Character, Environmental Quality and Residential Amenity states that in established residential areas planning permission will only be granted for the redevelopment of existing buildings, or the infilling of vacant sites (including extended garden areas) to accommodate new housing, where all the criteria set out in Policy QD 1 of PPS 7, and a number of criteria are met. In this case I am NOT satisfied that this proposal complies with all of the criteria of Policy LC 1, Protecting Local Character, Environmental Quality and Residential Amenity, in that the layout of the proposed pair of dwellings does not respect the pattern of development within the development and due to the lack of rear private amenity space for one of the proposed dwellings, in my opinion it is not in keeping with the overall character and environmental quality of the residential area.

Other Considerations

Some of the site is subject to flooding, however this location is nearer the front where development has already commenced in accordance with previous permissions. I do not consider his proposal will cause or be at greater risk of flooding. DfI Roads were consulted on this proposal and have asked for amendments which have not been forthcoming.

Recommendation Approval.

**Neighbour Notification Checked**

**Yes/No**

**Refusal Reasons**

1. The proposal is contrary to QD1 of Planning Policy Statement (PPS) 7 - Quality Residential Environments in that the development would, if permitted, adversely impact on the appearance of the development as the screen walls around the garden of the south westerly facing dwelling are in front of the building lines of the approved and built properties and ancillary development will detract from the character of the area.
2. The proposal is contrary to QD1 of Planning Policy Statement (PPS) 7 - Quality Residential Environments in that the development would, if permitted, result in the loss of amenity for the



residents of south westerly facing dwelling, as the private amenity space is not to the rear of the property and would be overlooked by other dwellings in the development.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	1st March 2021
<b>Date First Advertised</b>	16th March 2021
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses)	
<p>The Owner/Occupier, 1 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, 141 Eglish Road Dungannon Tyrone</p> <p>The Owner/Occupier, 144 Eglish Road Dungannon Tyrone</p> <p>The Owner/Occupier, 2 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, 3 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, 4 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, 5 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, 6 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, 7 Beech Mews Dungannon Tyrone</p> <p>The Owner/Occupier, St Patrick'S Rc Church Killyliss Road Dungannon</p>	
<b>Date of Last Neighbour Notification</b>	23rd March 2021
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>	
<p>Ref ID: LA09/2020/1371/F            Proposal: Replace cycle/footpath approved under M/2004/0778/F to a 2m wide footpath            Address: Shanmoy Downs, Eglish, Dungannon,            Decision: RL            Decision Date:</p> <p>Ref ID: LA09/2020/1073/F            Proposal: Amendment of site layout as previously approved under M/2015/0085/F &amp; M/2004/0778/F to relocate two houses, amend part road layout and access pathway link to Killyliss Road.</p>	

Address: Shanmoy Downs, Eglish, Dungannon,  
Decision: PG  
Decision Date: 10.03.2021

Ref ID: LA09/2021/0319/F  
Proposal: Proposed change of house type as approved in M/2004/0778/F from a detached to a pair of semi-detached on site 2  
Address: Opposite 114 Killyliss Road, Eglish, Dungannon,  
Decision:  
Decision Date:

Ref ID: M/2015/0085/F  
Proposal: Proposed No. 3 Detached Dwellings  
Address: 35m north of 141 Eglish Road, Eglish, Dungannon,  
Decision: PG  
Decision Date: 17.10.2017

Ref ID: LA09/2018/1559/F  
Proposal: Proposed change of house types as approved in M/2004/0778/F, from 5 No. detached on sites 2, 7, 8, 25 and 26 to 4 pair of semi-detached houses and foul water treatment plant to service additional houses.  
Address: 120m North West of 141 Eglish Road, Eglish, Dungannon,  
Decision: PG  
Decision Date: 17.12.2020

Ref ID: M/1980/0370  
Proposal: IMPROVEMENTS TO DWELLING  
Address: STILLAGO  
Decision:  
Decision Date:

Ref ID: M/1995/0017  
Proposal: Extension and alterations to dwelling  
Address: 141 EGLISH ROAD EGLISH DUNGANNON  
Decision:  
Decision Date:

Ref ID: M/2010/0708/F  
Proposal: Proposed new disabled toilet facility  
Address: Adjacent to St Patricks Church, Killylish Road, Eglish, Co Tyrone  
Decision:  
Decision Date: 13.05.2011

Ref ID: M/2004/0778/F  
Proposal: Proposed residential development of 47 dwellings  
Address: Opposite 114 Killyliss Rd, Eglish  
Decision:  
Decision Date: 12.10.2010

Ref ID: M/1981/0386  
Proposal: PRIVATE HOUSING DEVELOPMENT

Address: EGLISH, DUNGANNON  
Decision:  
Decision Date:

**Drawing Numbers and Title**

Drawing No. 02  
Type: Elevations and Floor Plans  
Status: Submitted

Drawing No. 01  
Type: Site & Detailed Drawings  
Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Karen Doyle	
<b>Application ID:</b> LA09/2021/1272/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed single storey 3 bedroom private dwelling with single detached garage adjacent to main house and surrounding landscaping	<b>Location:</b> South of 101a Cavankeeran Road Pomeroy
<b>Applicant Name and Address:</b> Mrs Arlene Phelan 18 Garden Mews Cookstown	<b>Agent name and Address:</b> Nest Architects Unit 5 Bebox 172 Tates Avenue Belfast BT12 6ND
<b>Summary of Issues:</b>  No objections received	
<b>Summary of Consultee Responses:</b>  No objections or issues of concern	
<b>Characteristics of the Site and Area:</b>  The site is in the countryside and outside any settlement limits as defined in the Cookstown Area Plan 2010 with the nearest settlement being Pomeroy. The site comprises a large agricultural field with roadside frontage onto Cavanakeeran Road which is a minor road which comes to a dead end beyond the application site. The topography of the site is relatively flat with the site at a slightly lower level than the ground level of the existing adjacent public road. The roadside, northern and southern boundary are defined by post and wire fencing and a degree of hedging and trees. The eastern boundary is currently undefined given this is a cut out portion of a large field. There are three detached	

dwellings and a farm holding immediately north of the application site. The surrounding area is characterised predominantly by agricultural land and dispersed dwellings.

### **Description of Proposal**

This application seeks full planning permission for a single storey dwelling and garage on lands south of 101a Cavankeeran Road, Pomeroy.

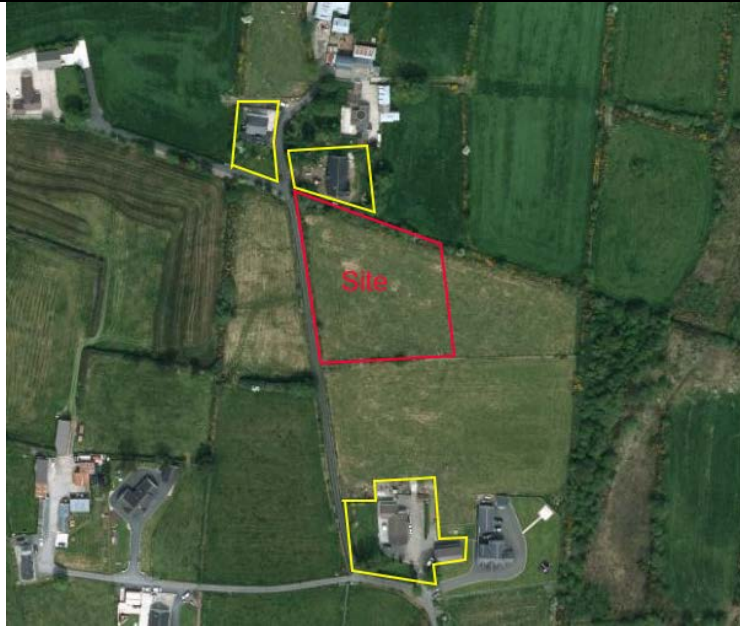
### **Deferred Consideration:**

This application was presented as a refusal at the Planning Committee in January 2022. The Members agreed to defer the application for an office meeting with the Service Director, following which I carried out a site visit.

At the deferred office meeting the agent gave a background to the submission of this planning application on this field. Whilst there may be other options on paper these have been promised to other members of the applicant's family. The agent contends the site is located off an extremely minor road and no harm will result in approving a dwelling at this location given there is an extremely limited public interest. The agent also contends the length should be measured to the rear of the site, rather than the site frontage, as this is more keeping in character with other dwelling curtilages in the immediate area. Cllr McNamee was supportive of the applicants at the office meeting and considers the gap is a small gap site. Cllr McNamee also stated the applicants wish to raise their children on family land with family living in the immediate area. The agent stated the applicant is self-employed with flexible working hours and will be able to care for parents currently in their 70's and brothers are unable to do so as they are employed on a full time basis.

It is accepted a dwelling cannot be considered on the basis of Policy CTY 10 as a dwelling was approved on the farm in 2015 and there is evidence to demonstrate it was sold off the farm holding.

Turning to Policy CTY 8, this allows for the development of a small gap site sufficient only to accommodate up to a maximum of two dwellings within an otherwise substantial and continuous built up frontage and provided this respects the existing development pattern along the frontage. Having visited the site, there is a line of three or more buildings along the road frontage without accompanying development to the rear. What is important to respect, as cited in Policy CTY 8 is that a new dwelling respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements.



**Map to show site and neighbouring plot sizes along road frontage**

The frontage of the application site is c.90m long. The agent stated at the office meeting the rear of the site measures just 60m and this should be considered. It is not just a matter of a rudimentary measurement of site frontage or the rear of a site, Policy directs to size, scale, siting and plot size and the plot size of the site, at this location, does not respect the existing development pattern along this particular road frontage. Indeed, to respect the existing pattern could ultimately accommodate more than the maximum two dwellings as referred to in Policy CTY 8 in the overall gap site. Given the plot size of this particular site I do consider it provides an important visual break at this location. The agent posed the question what harm an approval at this location would bring, given that it is an extremely minor road with minimal public interest. However, this is not a policy consideration for which an exception can be considered for a dwelling on this application site.

With regards to Policy CTY 13 I agree with the case officer's consideration of the proposed design of the dwelling houses for this full planning application and given I do not consider the principle of the development to be acceptable it would be unfair to put the applicant to the expense of amending the proposed design of the new dwelling. The dwelling is proposed to be of modern design with complex and varying roof pitches and with the existing contours of the site and the road this would be immediately apparent when viewing the dwelling.

A new dwelling is also contrary to Policy CTY 14 as a new dwelling on this site will have a detrimental impact on the rural character due to the resulting extension of a ribbon of development on a site which currently provides an important visual break at this location.

I am of the opinion that planning permission should be refused for this application for the reasons cited below.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY 1 of Planning Policy Statement 21 - Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement.
2. The proposal is contrary Policy CTY 8 - Ribbon Development of PPS 21 - Sustainable Development in the Countryside as the proposal does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and would add to a ribbon of development.
3. The proposal is contrary to CTY 10 - Dwelling on a Farm in PPS 21 - Sustainable Development in the Countryside as a development opportunity has been sold off from the farm holding within the past 10 years since the date of this application.
4. The proposal is contrary to Policy CTY 13 of PPS 21 - Sustainable Development in it is considered that the design of the proposed dwelling is inappropriate for the site and its locality and the proposal will fail to visually integrate into the surrounding landscape.
5. The proposal is contrary to Policy CTY 14 of PPS 21 - Sustainable Development in that the proposal would add to a ribbon of development and be detrimental to rural character.

**Signature(s):**

**Date**





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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2021/1272/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed single storey 3 bedroom private dwelling with single detached garage adjacent to main house and surrounding landscaping	<b>Location:</b> South of 101a Cavankeeran Road Pomeroy
<b>Referral Route:</b> Recommended refusal	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Mrs Arlene Phelan 18 Garden Mews Cookstown	<b>Agent Name and Address:</b> Nest Architects Unit 5 Bebox 172 Tates Avenue Belfast
<b>Executive Summary:</b> Proposal considered against prevailing planning policy – considered the proposal fails to comply with Policy CTY1 of PPS21. No letters of representation received.	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

#### Representations:

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

#### Characteristics of the Site and Area

The site is in the countryside and outside any settlement limits as defined in the Cookstown Area Plan 2010. The settlement development limits of Pomeroy are located 0.8km SE of the site as the crow flies. The site comprises a large agricultural field with roadside frontage onto Cavanakeeran Road which is a minor road which comes to a dead end beyond the application site. The topography of the site is relatively flat with the site at a slightly lower level than the ground level of the existing adjacent public road. The roadside, northern and southern boundary are defined by post and wire fencing and a degree of hedging and trees. The eastern boundary is currently undefined given this is a cut out portion of a large field. There are three detached dwellings and a farm holding

immediately north of the application site. The surrounding area is characterised predominantly by agricultural land and dispersed dwellings.

### **Description of Proposal**

This application seeks full planning permission for a single storey dwelling and garage on lands south of 101a Cavankeeran Road, Pomeroy.

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

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

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

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

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

### **Representations**

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

### **History on Site**

I/2005/0982/O - Proposed dwelling, domestic garage and new access to a public road - Lands 135m NE of 89 Cavanakeeran Road, Pomeroy – Application Withdrawn 13/12/05

I/2005/0604/O - Site for Dwelling – Lands approx. 25m south of 101 Cavanakeeran Road Pomeroy – Permission Granted 16/06/05

I/2008/0382/RM - Site for Dwelling - Lands approx. 25m south of 101 Cavanakeeran Road Pomeroy - Permission Granted – 26/05/09

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

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

The Strategic Planning Policy Statement for Northern Ireland – The SPPS states that a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within retained policy documents together with the SPPS. Paragraph 1.12 of the SPPS states that any conflict between the SPPS and any retained policy must be resolved in the favour of the provisions of the SPPS. SPPS advises that the policy provisions of Planning Policy Statement 21: Sustainable Development in the Countryside are retained.

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

#### CTY 10 – Dwelling on a Farm

The application was accompanied by a P1C form and farm maps therefore initially the proposal was considered against Policy CTY10 – Dwellings on Farms. Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where all of the following criteria can be met:

- a) the farm business is currently active and has been established for at least 6 years
- b) no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application. This provision will only apply from 25 November 2008
- 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 groups(s)

DAERA have confirmed that the farm business ID has been in existence for more than 6 years, however the farm business has not claimed payments through the Basic Payment Scheme in each of the last 6 years. With respect to criterion (b) following a review of the farm maps provided and a planning history check it was identified that planning approval had been granted on the farm business land for a dwelling. Planning approval I/2013/0273/O was granted on 07/11/13 for Brain Kane under Policy CTY 8. The approval is located on land within Field 5 on the DAERA farm map which accompanied this planning application. A Land Registry check was carried out which demonstrated this site was sold and the ownership was transferred on 07/07/15. This information was relayed to the agent on 21/10/21 giving them the opportunity to provide clarification on this matter, however the agent has since accepted that there has been a sell off and therefore the proposal does not meet Policy CTY10 criteria.

#### CTY 8 – Ribbon Development

The agent has since contended that the application site qualifies as a small gap site as permitted under CTY 8 of PPS 21. Policy CTY 8 states planning permission will be refused for a building which creates or adds to a ribbon of development. However, an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of 2 houses within an otherwise substantial and

continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of this policy the definition of a substantial and built up frontage includes a line of 3 or more buildings along a road frontage without accompanying development to the rear.

No.101b and No.101 with associated outbuildings are located immediately north of the application site, however the dwelling house No.101 and associated farm buildings do not have a frontage on to the public road therefore cannot be considered as one of the three or more buildings. No.101a is located NW of the application site and the detached dwelling of No.89 is located along the road frontage to the south. It should be noted that an agricultural field with road frontage of 74m separates the application site and the dwelling of No.89. In terms of the existing development pattern plot size, No.101a has a frontage of approx. 27m, No.101b has a frontage of approx. 23m and No.89 has a frontage of approx. 35m which is an average frontage of 28m in the immediate landscape. The application site has a road frontage of approx. 93m. It is therefore considered that the application site does not respect the existing development pattern in terms of plot size. Policy CTY 8 states the site should be a small gap site sufficient only to accommodate up to a maximum of two houses. In my opinion, the application site could accommodate at least 3 dwellings and the field immediately south could also accommodate at least 2 dwellings therefore this does not represent a small gap site and fails to meet Policy CTY8. Paragraph 5.34 of PPS 21 states “many frontages in the countryside have gaps between houses or other buildings that provide relief and visual breaks in the developed appearance of the locality and that help maintain rural character”. It is my opinion that the application site represented a visual break. The agent has accepted that the gap on paper appears large however argued the site wouldn't accommodate more than two dwellings. I do not except this and the below photos demonstrate the gap appears large not only on the drawings but on the ground also. The agent has relied on previous approval for an infill dwelling (I/2013/0273/O) along this stretch of road, however all applications are to be considered on their individual merits and in the case of the previous approval the average frontage was 35m and the infilling of 2 dwellings resulted in a frontage of approx. 47m each which is significantly smaller than the 93m frontage this application proposes. Whilst the agent has argued this is a minor road with a minimal degree of public interest, this does warrant approval or substantiate the setting aside of policy and this is not accepted.



Travelling south – view of application site





Travelling north – approaching site

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The proposed single storey dwelling was discussed at internal group and concerns were raised with the design particularly the roof with several different roof heights and pitches. Whilst concerns with the design were relayed to the agent, no formal request for an amended design were requested at this stage given the principle of a dwelling on the site is considered unacceptable. The proposed design is modern with complex and varying roof pitches and a large number of windows. It is considered the proposed dwelling would appear incongruous when read with the surrounding existing built form which are traditional in design. It is considered the proposal will fail to integrate into the surrounding landscape and is contrary to CTY13.

Policy CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause detrimental change to, or further erode the rural character of an area. The application site is a large green field. The addition of a dwelling on this site, in my view, will have a detrimental impact on the rural character as it will be extending the existing ribbon of development along a site which I consider to represent a significant visual break in the landscape. Paragraph 5.8 of PPS 21 states ribbon development is detrimental to rural character and contributes to a sense of build-up. It is therefore considered contrary to CTY 14.

**PPS 3: Access, Movement and Parking**

The application site seeks to create a new access on to Cavankeeran Road. DfI Roads have been consulted and have offered no objections subject to conditions. It is considered a dwelling on the site will not prejudice road safety or significantly inconvenience the flow of traffic and accords with Policy AMP2 of PPS3.

**Additional considerations**

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

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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<b>Summary of Recommendation:</b>
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Having considered all relevant prevailing planning policy, the proposal is recommended for refusal for the reasons stated below.

**Reasons for Refusal:**

1. The proposal is contrary to the Strategic Planning Policy Statement and Policy CTY 1 of Planning Policy Statement 21 – Sustainable Development in the Countryside in that there is no overriding reason why the development cannot be located within a settlement.
2. The proposal is contrary Policy CTY 8 – Ribbon Development of PPS 21 – Sustainable Development in the Countryside as the proposal does not constitute a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and would add to a ribbon of development.
3. The proposal is contrary to CTY 10 – Dwelling on a Farm in PPS 21 – Sustainable Development in the Countryside as a development opportunity has been sold off from the farm holding within the past 10 years since the date of this application.
4. The proposal is contrary to Policy CTY 13 of PPS 21 – Sustainable Development in it is considered that the design of the proposed dwelling is inappropriate for the site and its locality and the proposal will fail to visually integrate into the surrounding landscape.
5. The proposal is contrary to Policy CTY 14 of PPS 21 – Sustainable Development in that the proposal would add to a ribbon of development and be detrimental to rural character.

**Signature(s)**

**Date:**





**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Tuesday 1 March 2022 in Council Offices, Ballyronan Road, Magherafelt and by virtual means**

**Members Present** Councillor Black, Chair  
Councillors Bell, Brown\*, Clarke\*, Colvin\*, Corry, Cuthbertson, Glasgow (7.10 pm), Hughes\*, Mallaghan, McFlynn, McKinney, D McPeake, S McPeake, Quinn\*, Robinson

**Officers in Attendance** Dr Boomer, Service Director of Planning  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Mr McClean, Senior Planning Officer\*\*  
Mr McCreesh, Chief Executive\*\*  
Ms McIlveen, Legal Adviser  
Miss Thompson, Democratic Services Officer

**Others in Attendance** Councillor Gildernew\*\*\*  
Councillor Molloy\*\*\*

LA09/2021/1276/O Mr Lewis

\* Denotes members and members of the public present in remote attendance

\*\* Denotes Officers present by remote means

\*\*\* Denotes others present by remote means

The meeting commenced at 7.01 pm

**P025/22 Notice of Recording**

Members noted that the meeting would be webcast for live and subsequent broadcast on the Council's You Tube site.

**P026/22 Apologies**

None.

**P027/22 Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

Councillor Robinson declared an interest in agenda item 5.5 – LA09/2020/1259/F and agenda item 5.15 – LA09/2021/0991/O.

## **P028/22 Chair's Business**

The Chair, Councillor Black introduced Ms McIlveen to the Committee and advised that she would be the legal adviser for tonight's meeting to provide cover during the Council Solicitor's absence.

The Service Director of Planning referred to receipt of consultation relating to Draft Transmission Development Plan for 2021-2030 which sets out SONI's plans to ensure the electricity transmission grid remains fit for purpose for the future. The Service Director advised that this Draft Transmission Development Plan contains objectives to ensure the system is able to accommodate and provide 70% of energy from renewables and sets targets along these lines. It was advised that the Transmission Development Plan forms part of an overall strategy which the Council has already commented on and that response stated that whilst Council did not oppose renewables it is important to respect vulnerable landscapes such as the Sperrins and Lough Neagh and that consideration needs to be given as to how communities can benefit from infrastructure and not just the private developer. The response further stated that the Council would also be in favour of 'powering up', that is, having better equipment to produce higher levels of energy.

In looking at the consultation relating to the Draft Transmission Development Plan 2021-2030, the Service Director referred to the various interconnector lines and saw a key line from Magherafelt to Derry/Londonderry which will go over the Sperrins. The Service Director of Planning stated that whilst not opposed to that line as it will strengthen infrastructure, attention should be drawn to policy within Council's Draft Development Plan in relation to protection of vulnerable landscapes and that structures should not be over 25m in height in these areas. The route taken for the line should also be adequately appraised. The Service Director of Planning requested permission to respond to the consultation as outlined above.

**Resolved** To respond to consultation on Draft Transmission Development Plan 2021-2030 stating that whilst Council is not opposed to development of Magherafelt to Derry/Londonderry interconnector line, it is important to respect vulnerable landscapes. Response should highlight policy within Council's Draft Development Plan in relation to protection of vulnerable landscapes and that structures should not be over 25m in these areas. Potential routes should also be adequately appraised.

*Councillor Glasgow entered the meeting at 7.10 pm.*

The Service Director of Planning referred to the below applications which were on the agenda for determination and sought approval to have the following applications deferred from tonight's meeting schedule for an office meeting –

Agenda Item 5.3 – LA09/2019/1124/O - Replacement dwelling and garage 70m N of 172 Innishrush Road, Upperlands, for Mr T Kelso.

Agenda Item 5.8 – LA09/2020/1531/F - Retention of vehicular access to existing garage at Fairy Burn House, Sandholes Road, Cookstown for Mr. Kieran McCracken.

Agenda Item 5.10 – LA09/2021/0480/F - Dwelling and domestic garage within existing cluster at 75m W of 11 Grange Road, Cookstown for Mr. Paddy Donnelly.

Agenda Item 5.11 – LA09/2021/0528/F - Amendment to conditions 3, 4 & 5 of I/2001/0137/F (vehicular accesses & visibility splays) adjacent to 89 Lissan Road, Cookstown, for Mr Malcolm Thom.

Agenda Item 5.12 – LA09/2021/0641/O - Site for a dwelling and domestic garage on a farm 25m S of 66 Ballynease Road, Portglenone, for Catherine & Ciaran Maguire.

Agenda Item 5.14 – LA09/2021/0909/O - Farm dwelling & garage at approx. 250m W of 18 Mawillan Rd. Moneymore, for Seamus Lagan.

Agenda Item 5.15 – LA09/2021/0991/O - Dwelling & detached garage at approx. 50m NE of 23 Castletown Road, Aughnacloy, for Michael Jones.

Agenda Item 5.17 – LA09/2021/1315/F - Retention of hard cored yard for farm storage along and proposed farm storage shed adjacent to 18 Keenaghan Road, Cookstown, for Vincent Dynes.

Agenda Item 5.22 - LA09/2021/1598/O - Dwelling, garage & associated site works 80m SW of 129 Benburb Road, Dungannon, for Mr Norman McKenzie.

The Chair, Councillor Black referred to request for deferral of agenda item 5.11 which alluded to inviting DfI Roads to an office meeting. Councillor Black asked if DfI Roads would be invited to this office meeting.

The Service Director of Planning advised that DfI Roads would be invited to the office meeting and it was up to them whether they attended.

Proposed by Councillor S McPeake  
Seconded by Councillor McFlynn and

**Resolved** That the planning applications listed above be deferred for an office meeting.

## **Matters for Decision**

### **P029/22 Planning Applications for Determination**

The Chair drew Members attention to the undernoted planning applications for determination.

#### **LA09/2018/0762/O Gap site for dwelling & garage at 45m W of 151 Mullanahoe Road, Ardboe for Gary Campbell**

Members considered previously circulated report on planning application LA09/2018/0762/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2018/0762/O be approved subject to conditions as per the officer's report.

**LA09/2019/0712/F Construction of general purpose agricultural buildings and associated groundworks at 25m NE of 34 Castlecaulfield Road, Donaghmore for Mr Joseph O'Neill**

Mr Marrion (SPO) presented a report on planning application LA09/2019/0712/F advising that it was recommended for refusal.

Councillor S McPeake asked how onerous the report was that is required.

Mr Marrion stated that ground would be required to be scraped back and an archaeologist would be required to be on site to evaluate the ground. Some trenches will also be required and it had already been identified where these should be and their depth. Mr Marrion stated that the applicant will be required to carry out these investigations at some point and at this stage the report is being requested to ensure there are no remains there which could be compromised if development goes ahead.

The Service Director of Planning asked if this was only an initial assessment to establish what is there which will then go on to establish what works need to be done if there were archaeological remains found.

Mr Marrion stated that the idea of the report is to ascertain if the site is archaeologically sterile or if there are remains on the site.

Councillor Mallaghan proposed that the application be held for one month to give the applicant a final opportunity to move forward with providing the necessary report.

Ms McIlveen asked if there has been engagement with the applicant on what is required and if the applicant had provided any explanation as to why the report has not been submitted to date.

Mr Marrion advised that there has been engagement with the applicant and the applicant's agent and that the process has been explained to them. Mr Marrion stated that the applicant has cited a cost issue with providing the report and that the application may not be approved after having the works carried out. Mr Marrion stated that it was explained to the applicant that the application meets planning policy in principle but it needs to be ascertained whether there are archaeological remains on site.

Councillor Bell seconded Councillor Mallaghan's proposal.

Councillor McFlynn commented that archaeological remains and heritage are important. Councillor McFlynn asked if this application would be brought back committee or would go for refusal after one month if a report is not to be submitted.

*Councillor Colvin declared an interest in the application as he is a member of the Historic Monuments Council.*

The Service Director of Planning stated he would be more comfortable with taking due process as it saves future challenges. The Service Director stated that officers have explained to the applicant what is required but that there was no harm in providing one last opportunity in order for the necessary report to be prepared.

**Resolved** That planning application LA09/2019/0712/F be deferred for one month.

**LA09/2019/1124/O Replacement dwelling and garage 70m N of 172 Innishrush Road, Upperlands for Mr T Kelso**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2019/1503/F Free range poultry laying unit (max no. of birds 16,000), litter shed, 2 feed bins, access to public road and associated works at approx. 115m NW of 25 Old Monaghan Road, Clogher for Stephen and Angela McKenna**

Members considered previously circulated report on planning application LA09/2019/1503/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2019/1503/F be approved subject to conditions as per the officer's report.

**LA09/2020/1259/F Additional first floor office space at 15a Grange Road, Ballygawley for Exi - Tite Ltd**

Members considered previously circulated report on planning application LA09/2020/1259/F which had a recommendation for approval.

Proposed by Councillor Cuthbertson  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2020/1259/F be approved subject to conditions as per the officer's report.

**LA09/2020/1454/F 29 dwelling units with associated parking, access, landscaping and wastewater treatment (reduced from 35 to 29 units) at 15-17 Oaks Road, Dungannon for Sandale Developments Ltd**

Ms Doyle (SPO) presented a report on planning application LA09/2020/1454/F advising that it was recommended for approval. Ms Doyle advised that further to the report, updated site layout and landscape plans have been submitted which address concerns with regard to parking although this is to be confirmed by Roads Service.

Ms Doyle stated that Mr & Mrs Donnelly are also prepared to withdraw their objection to the application provided the 2.1m close boarded timber fence is erected prior to commencement of works at the site.

The Service Director of Planning stated normally officers ensure all matters are resolved prior to bringing an application to committee and in this case there were a number of issues which had not been resolved. The Service Director highlighted that this application is for social housing and if the application had not been progressed there was potential that funding from the housing association for the project could have been lost. The Service Director advised that a number of solutions have now been found and on that basis he suggested that if all matters are resolved that the approval be issued. If there are issues remaining unresolved then the application will be brought back to committee.

Proposed by Councillor Mallaghan  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2020/1454/F be approved subject to conditions as per the officer's report and remaining issues being resolved prior to issuing determination. If there are issues remaining unresolved then the application will be brought back to committee.

**LA09/2020/1513/F 4 dwellings (to replace I/2012/0115/F) at 56 Moneymore Road, Cookstown for Mr A Martin**

Members considered previously circulated report on planning application LA09/2020/1513/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2020/1513/F be approved subject to conditions as per the officer's report.

**LA09/2020/1531/F Retention of vehicular access to existing garage at Fairy Burn House, Sandholes Road, Cookstown for Mr Kieran McCracken**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2020/1571/F Retrospective application for the retention of livestock shed, silage pit, and extension to existing agricultural storage/ equipment/ machinery shed and all associated site development and drainage works at approx. 200m SE of 68 Kilnacart Road, Dungannon for Mr Niall McCann**

Members considered previously circulated report on planning application LA09/2020/1571/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2020/1571/F be approved subject to conditions as per the officer's report.

**LA09/2021/0480/F Dwelling and domestic garage within existing cluster at 75m W of 11 Grange Road, Cookstown for Mr Paddy Donnelly**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/0528/F Amendment to conditions 3, 4 & 5 of I/2001/0137/F (vehicular accesses & visibility splays) adjacent to 89 Lissan Road, Cookstown for Mr Malcolm Thom**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/0641/O Site for a dwelling and domestic garage on a farm 25m S of 66 Ballynease Road, Portglenone for Catherine & Ciaran Maguire**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/0840/O Site for dwelling & garage at 30m E of 34a Annaghmore Road, Cookstown for Daniel Quinn**

Members considered previously circulated report on planning application LA09/2021/0840/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0840/O be approved subject to conditions as per the officer's report.

**LA09/2021/0909/O Farm dwelling & garage at approx. 250m W of 18 Mawillan Road, Moneymore for Seamus Lagan**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/0991/O Dwelling & detached garage at approx. 50m NE of 23 Castletown Road, Aughnacloy for Michael Jones**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/1252/F Dwelling and garage (change from I/2011/0240/F) at 370m NW of junction of Glenarney and Knockaleery Roads, Cookstown for Mrs Amanda McCord**

Members considered previously circulated report on planning application LA09/2021/1252/F which had a recommendation for approval.

Councillor Clarke proposed the recommendation.

Councillor Glasgow asked what the objection to the application was.

Mr Doyle advised she would check this as she did not have the file to hand.

Councillor Glasgow stated he was content to second Councillor Clarke's proposal and find out what the objection was later.

**Resolved** That planning application LA09/2021/1252/F be approved subject to conditions as per the officer's report.

**LA09/2021/1315/F Retention of hard cored yard for farm storage along and proposed farm storage shed adjacent to 18 Keenaghan Road, Cookstown for Vincent Dynes**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/1458/F Conversion of existing barn to dwelling house at 40m W of 54 Coash Road, Dungannon for Philip McClung**

Members considered previously circulated report on planning application LA09/2021/1458/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2021/1458/F be approved subject to conditions as per the officer's report.

**LA09/2021/1481/F Dwelling and detached garage (to supercede part of H/2000/0418/F) at site at 1 Beech Lane, Maghera for Michael Burke**

Members considered previously circulated report on planning application LA09/2021/1481/F which had a recommendation for approval.

Proposed by Councillor McFlynn  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2021/1481/F be approved subject to conditions as per the officer's report.

**LA09/2021/1498/F Dwelling and detached garage (to supercede part of H/2000/0418/F) at site at 2 Beech Lane, Maghera for Barry Hampson**

Members considered previously circulated report on planning application LA09/2021/1498/F which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and



**Resolved** That planning application LA09/2021/1498/F be approved subject to conditions as per the officer's report.

**LA09/2021/1544/O Site for dwelling with detached garage at 30m NE of 37 Cooneen Road, Fivemiletown for William McConnell**

Members considered previously circulated report on planning application LA09/2021/1544/O which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2021/1544/O be approved subject to conditions as per the officer's report.

**LA09/2021/1598/O Dwelling, garage & associated site works 80m SW of 129 Benburb Road, Dungannon for Mr Norman McKenzie**

Agreed that application be deferred for an office meeting earlier in meeting.

**LA09/2021/1627/F Rear extension, detached garage & alterations at 55 Springhill Road, Moneymore for Mark Moran**

Members considered previously circulated report on planning application LA09/2021/1627/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/1627/F be approved subject to conditions as per the officer's report.

**LA09/2020/0740/F Site for dwelling and garage between No.23 & No 29A Cloghog Road, Coalisland for Mr Conor Tennyson**

The Service Director of Planning advised that further information had been received in relation to the application which officers had not yet had time to consider and asked that the application be deferred for one month.

Proposed by Councillor Mallaghan  
Seconded by Councillor Corry and

**Resolved** That planning application LA09/2020/0740/F be deferred for one month to consider the additional information submitted.

**LA09/2020/0870/O Infill dwelling and garage, approx. 20m E of 14 Killyneill Road, Dungannon for Mr Kevin Rafferty**

Members considered previously circulated report on planning application LA09/2020/0870/O which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor Mallaghan and

**Resolved** That planning application LA09/2020/0870/O be approved subject to conditions as per the officer's report.

**LA09/2021/0054/O Site for dwelling and garage on a farm at approx. 60m SW of 125a Ballinderry Bridge Road, Cookstown for Kieran Mitchell**

Members considered previously circulated report on planning application LA09/2021/0054/O which had a recommendation for approval.

Proposed by Councillor Bell  
Seconded by Councillor McFlynn and

**Resolved** That planning application LA09/2021/0054/O be approved subject to conditions as per the officer's report.

**LA09/2021/0506/F Single storey dwelling on a farm with conversion and reuse of existing byre and upgrade of existing access at 45m SE of 83 Derryloughan Road, Coalisland for Mr Christopher McCann**

Members considered previously circulated report on planning application LA09/2021/0506/F which had a recommendation for approval.

Proposed by Councillor Clarke  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2021/0506/F be approved subject to conditions as per the officer's report.

**LA09/2021/0681/O Dwelling and domestic garage based at approx. 25m NE of 49 Moyagoney Road, Portglenone for Alan Donegan**

Members considered previously circulated report on planning application LA09/2021/0681/O which had a recommendation for approval.

Proposed by Councillor D McPeake  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2021/0681/O be approved subject to conditions as per the officer's report.

**LA09/2021/1036/F New entrance (substitution approved LA09/2020/0631/F) at approx. 60m SW of 137 Lurgylea Road, Galbally, Dungannon for Mr Damian Corr**

Members considered previously circulated report on planning application LA09/2021/1036/F which had a recommendation for approval.

Proposed by Councillor Mallaghan  
Seconded by Councillor Clarke and

**Resolved** That planning application LA09/2021/1036/F be approved subject to conditions as per the officer's report.

**LA09/2021/1276/O Dwelling (including waste water treatment plant) at 35m NW of 270 Killyman Road, Dungannon for Mr Paul Cranston**

*Councillor Cuthbertson declared an interest in this application.*

Mr Marrion (SPO) presented a report on planning application LA09/2021/1276/O advising that it was recommended for refusal.

The Chair advised the committee that a request to speak on the application had been received and invited Mr Lewis to address the committee.

Mr Lewis stated he was speaking on behalf of his mother to voice her concerns, along with his own in relation to the application. Mr Lewis stated that if the proposal was built then he would be able to stand on his own boundary wall and touch where the proposed dwelling is to be as there was only 3ft of separation. Mr Lewis stated his mother has lived in her dwelling from 1940's and it is causing her a lot of stress to think that there will be someone coming so close beside her. There are also concerns at loss of light and privacy. Mr Lewis stated that the entrance to the site has already been opened up and that this has caused damage to a fence. Mr Lewis stated that a retaining wall has been built on his mother's side in the past and he would have concerns that there may be land slippage caused by works so close by. Mr Lewis stated he did not feel the proposal will fit in with the character of the area and that there will be loss of privacy.

The Chair, Councillor Black stated that it is right for Mr Lewis to have the opportunity to raise his concerns and that a number of the concerns have been considered within the officers report.

Councillor Glasgow stated that realistically the site is too small and he would be supportive of the refusal.

The Chair, Councillor Black stated he would also have concerns and that the site is significantly out of character with neighbouring sites.

Proposed by Councillor McFlynn  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2021/1276/O be refused on grounds stated in the officer's report.

**P030/22 Receive update to Planning Officer Authorisation List**

Members considered previously circulated report which sought approval for Mr Colin McKeown to be authorised to sign decisions and Orders on behalf of the Council in accordance with its Schemes of Delegation.

Proposed by Councillor Cuthbertson  
Seconded by Councillor Mallaghan and

**Resolved** That Mr Colin McKeown is nominated as an authorised officer to sign decisions and Orders on behalf of the Council in accordance with its Schemes of Delegation.

**P031/22 Receive response to Department for the Economy Consultation on Application for Prospecting Licenses by Dalradian Gold Ltd**

The Service Director of Planning presented previously circulated report which outlined the Department for the Economy's consultation on their notice of intention to award two Mineral Prospecting Licences to Dalradian Gold Ltd and Council's response to the consultation.

Councillor Mallaghan thanked the Service Director of Planning for raising a number of concerns within the response and that he would have further concerns. Councillor Mallaghan felt that a possible tactic of Dalradian or other companies is that the further they spread their web the more it may entice people to be interested in the prospect of licensing and what might be under their ground. Councillor Mallaghan expressed concern at activity in neighbouring Council area where materials have already been taken out of the ground without planning permission but using permitted development rights. Councillor Mallaghan referred to the large quantity of materials taken away and sent to America/Canada which has been done without a single planning permission. The Councillor stated that he felt the cart is put before horse in this regard and whilst he recognised that the item under consideration tonight related to mineral prospecting licenses he felt there is a connection. Councillor Mallaghan referred to consultation from DfE on whether boundaries for mineral exploration licenses should be extended and felt it was too much and that with regard to permitted development rights and prospecting a commitment needs to be seen first. There also needs to be seen whether society finds the prospect of mining acceptable in the first place. Councillor Mallaghan referred to the public inquiry in relation to what has happened in the neighbouring Council area and that he would like to see the conclusion of this first prior to allowing any further permissions for prospecting in other areas. The Councillor questioned that if the inquiry finds that mining should not proceed would it be sensible to keep issuing mineral exploration licenses in the interim. If the public inquiry finds that mining is approved going forward then that is the opportunity for companies to apply for further licenses at that stage. Councillor Mallaghan stated he felt there is too much ground work being done by Dalradian and other companies prior to establishing the view of the people of the North. Councillor Mallaghan asked that his concerns be incorporated into the draft response.

Councillor Clarke supported Councillor Mallaghan's comments and stated that in the past the exploration has not been as unobtrusive as it seems and that drilling apparatus has been used.

Councillor Cuthbertson referred to the invitation to visit Dalradian site and asked if a visit was still planned.

The Service Director of Planning advised that it is still the intention to organise this site meeting and hoped that it would take place in the near future.

Councillor Cuthbertson highlighted that Council is not the decision maker in relation to permitting the licenses.

The Service Director of Planning stated it is right for the planning committee to reflect the views of the community and that these views are examined at the public inquiry. The Service Director agreed that the outcome is not Council's decision and that it is up to Dalradian to explain its case and for objectors to explain theirs. The Service Director stated that Council has expressed its views in relation to prospecting licenses and that he felt visiting the site will be constructive in presenting a view and partaking in discussions at public inquiry.

Councillor McFlynn felt that Council should continue to raise its concerns and agreed with Councillor Mallaghan in that permitting further licenses will give Dalradian opportunity to expand.

The Service Director of Planning stated he had no difficulty with including the comments raised tonight within the draft response.

Councillor Robinson stated there was no doubt there were differing views on the matter. Councillor Robinson stated he had previously visited a salt mine in Carrickfergus and it was amazing to see what was going on there and the employment it was providing in the area. Councillor Robinson stated he would like to see the Dalradian mine.

Proposed by Councillor Mallaghan  
Seconded by Councillor Corry and

**Resolved** To submit response to the Department for the Economy in relation to their consultation on their notice of intention to award two Mineral Prospecting Licences to Dalradian Gold Ltd as outlined at Appendix A of report with inclusion of additional comments as stated during discussion expressing concern at issuing further permissions prior to outcome of public inquiry whilst giving Dalradian further opportunity to expand.

## **Matters for Information**

### **P032/22 Minutes of Planning Committee held on 1 February 2022**

Members noted minutes of Planning Committee held on 1 February 2022.

### **P033/22 Receive report on DfE grant of Dalradian Gold Prospecting Licenses DG1/22 and DG2/22**

Members noted previously circulated report which advised that the Department for the Economy have approved the application for prospecting licences for Dalradian Gold Ltd effective from 1 February 2022.

*Live broadcast ended at 8.02 pm.*

## **Local Government (NI) Act 2014 – Confidential Business**

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** In accordance with Section 42, Part 1 of Schedule 6 of the Local Government Act (NI) 2014 that Members of the public be asked to withdraw from the meeting whilst Members consider items P034/22 to P040/22.

### **Matters for Decision**

- P034/22 Receive Response to Department for Infrastructure Issues Paper on Review of Strategic Policy on Renewable Energy
- P035/22 Receive report on UAH Letter re Building Preservation Notice at St Malachy's Parochial Hall
- P036/22 Receive Report on Promoting Quality Design

### **Matters for Information**

- P037/22 Confidential Minutes of Planning Committee held on 1 February 2022
- P038/22 Receive Update on the Implementation of the New Planning Portal
- P039/22 Enforcement Cases Opened
- P040/22 Enforcement Cases Closed

### **P041/22 Duration of Meeting**

The meeting was called for 7 pm and concluded at 8.35 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_

## Annex A – Introductory Remarks from the Chairperson

Good evening and welcome to the meeting of Mid Ulster District Council's Planning Committee in the Chamber, Magherafelt and virtually.

I specifically welcome the public watching us through the Live Broadcast feed. The Live Broadcast will run for the period of our Open Business but will end just before we move into Confidential Business. I will let you know before this happens.

Just some housekeeping before we commence. Can I remind you:-

- If you have joined the meeting remotely please keep your audio on mute unless invited to speak and then turn it off when finished speaking
- Keep your video on at all times, unless you have bandwidth or internet connection issues, where you are advised to try turning your video off
- If you wish to speak please raise your hand in the meeting or on screen and keep raised until observed by an Officer or myself
- Should we need to take a vote this evening, I will ask each member to confirm whether you are for or against the proposal or abstaining from voting
- For members attending remotely, note that by voting on any application, you are confirming that you were in attendance for the duration of, and that you heard and saw all relevant information in connection with the application you vote on
- When invited to speak please introduce yourself by name to the meeting. When finished please put your audio to mute
- For any member attending remotely, if you declare an interest in an item, please turn off your video and keep your audio on mute for the duration of the item
- An Addendum was emailed to all Committee Members at 5pm today. There is also a hard copy on each desk in the Chamber. Can all members attending remotely please confirm that they received the Addendum and that have had sufficient time to review it?
- If referring to a specific report please reference the report, page or slide being referred to so everyone has a clear understanding
- For members of the public that are exercising a right to speak by remote means, please ensure that you are able to hear and be heard by councillors, officers and any others requesting speaking rights on the particular application. If this isn't the case you must advise the Chair immediately. Please note that once your application has been decided, you will be removed from the meeting. If you wish to view the rest of the meeting, please join the live link.
- Can I remind the public and press that taking photographs of proceedings or the use of any other means to enable persons not present to see or hear any

proceedings (whether now or later), or making a contemporaneous oral report of any of the proceedings are all prohibited acts.

Thank you and we will now move to the first item on the agenda - apologies and then roll call of all other Members in attendance.





## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 1 March 2022**

**Additional information has been received on the following items since the agenda was issued.**

### **Chairs Business –**

Letter to DAERA re prioritising of applications with grant funding

<b>ITEM</b>	<b>INFORMATION RECEIVED</b>	<b>ACTION REQUIRED</b>
5.6	Additional information received from applicant and agent re withdrawal of objections and response received from DfI Roads	Members to note

