



05 February 2019

Dear Councillor

You are invited to attend a meeting of the Planning Committee to be held in The Chamber, Magherafelt at Mid Ulster District Council, Ballyronan Road, MAGHERAFELT, BT45 6EN on Tuesday, 05 February 2019 at 19:00 to transact the business noted below.

Yours faithfully

Anthony Tohill  
Chief Executive

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## AGENDA

### OPEN BUSINESS

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

### Matters for Decision

### Development Management Decisions

4. Receive Planning Applications 5 - 194

	Planning Reference	Proposal	Recommendation
4.1.	LA09/2016/1703/O	Change of use of waste management facility to a residential development of 6 semi-detached and 2 apartments at 89 Clady Road, Portglenone, for Martin Henry.	APPROVE
4.2.	LA09/2017/0489/F	Farm shed 210m E of 96 Ballynakilly Road, Coalisland, for Gavin Quinn.	REFUSE
4.3.	LA09/2017/0753/F	Poultry house (8000 birds), manure store and feed bin at lands approx. 180m N of 60 Sessiagh Scott Road, Rock, for	APPROVE

		Mr G McGorry.	
4.4.	LA09/2017/0806/F	5 no. self catering holiday units at 9 Mill road, Killucan, Cookstown, for Kieran Small.	APPROVE
4.5.1.	LA09/2017/1196/A	Business signage; including signage on S & W elevations and free standing sign in front of building at 15-17 Church Street, Magherafelt, for Danny Mulholland.	REFUSE
4.5.2.	LA09/2018/1521/LBC	Business signage; including signage on S & W elevations and free standing sign in front of building at 15-17 Church Street, Magherafelt, for Mid Ulster Back Care and Physiotherapy.	REFUSE
4.6.	LA09/2017/1532/F	Farm building 40m NW of 81 Killyliss Road, Dungannon, for Mr Gary McCann.	APPROVE
4.7.	LA09/2017/1776/O	Dwelling and garage 25m W of The Manor House, Corchoney Lane, Cookstown, for Mr Noel Corey.	APPROVE
4.8.	LA09/2018/0123/F	Extension to existing supermarket and relocation of Off-Sales at Springisland supermarket, 2 Washingbay Road, Coalisland, for Mr Peter Rice	APPROVE
4.9.	LA09/2018/0666/O	Replacement of existing mobile home with farm dwelling and garage at approx. 40m SE of 32a Mayogall Road, Gulladuff, for Damon Brown.	REFUSE
4.10.	LA09/2018/0800/O	Dwelling and garage at land between 20&26 Garrison, Toberhead, Knockloughrim, for Donna O'Kane.	REFUSE
4.11.	LA09/2018/0944/O	Infill dwelling and garage approx. 90m SE of 43 Rocktown Road, Bellaghy, for Mr David Arrell.	REFUSE
4.12.	LA09/2018/1179/F	Replacement garage in relation to Ex wedding car hire business at 39 Rocktown Road, Bellaghy, for NI Wedding Cars.	REFUSE
4.13.	LA09/2018/1349/F	Cattle handling and isolation facilities at lands to the front and NE of 102 and 104 Ballygawley Road and S of 101 Ballygawley Road, Glenadush, for Bernard	REFUSE

		McAleer.	
4.14.	LA09/2018/1355/F	Single garage (semi-detached to neighbours existing garage) at 6 Parkmore Gardens, Magherafelt, for Mr R and Mrs C Rainey.	APPROVE
4.15.	LA09/2018/1450/F	Infill dwelling and domestic garage at site between 6 & 6A Carncoose Road, Moneymore, for Mr Rodney Mitchell	REFUSE
4.16.	LA09/2018/1458/O	Dwelling 50m SW of 55 Kanes Rampart, Derryloughan, for Owen Campbell.	REFUSE
4.17.	LA09/2018/1464/F	Retrospective application for retention of general office/shelter, store building and control tower at 250m W of 7A Ballymoghane Lane, Magherafelt, for Mr Robert Brown.	APPROVE
4.18.	LA09/2018/1519/O	Farm dwelling at lands approx. 200m N of 65 Killyliss Road, Dungannon, for Mr Magowan	REFUSE
4.19.	LA09/2018/1542/F	Widening of existing forest park entrance for two way traffic access with controlled bollards, erection of pay stations in car park, and introduction of passing bays along internal access road at Davagh Forest Park, Omagh, for Mid Ulster District Council	APPROVE
4.20.	LA09/2018/1554/F	Change of house type (from planning ref H/2007/1142/f) to chalet bungalow with detached garage and stable block, at 64 Glenshane Road, Knockloughrim, for Mr M O'Kane.	APPROVE
4.21.	LA09/2018/1557/RM	Chalet bungalow and detached garage 40m N of 64 Glenshane Road, Knockloughrim, for Mr and Mrs S Kane.	APPROVE

## 5. Receive Deferred Applications

195 - 270

	Planning Reference	Proposal	Recommendation
5.1.	LA09/2016/0690/F	Retrospective application for beauty salon and car sales area with associated office and valet facility at lands adjacent to 3 Killymuck Road, Upperlands, for	APPROVE

		Brian McCloskey.	
5.2.	LA09/2016/1122/F	Farm dwelling 40m NE of 48 Waterfoot Road, Magherafelt, for Mr Henry J Walls.	APPROVE
5.3.	LA09/2017/1055/O	Dwelling and garage approx. 30m S of 77 Gulladuff Hill, Mayogall, Gulladuff, for Joe Hurley	APPROVE
5.4.	LA09/2018/0213/O	Site for dwelling and domestic garage at 60m SE of 101 Bancran Road, Draperstown, for Mr Oliver Bradley	REFUSE
5.5.	LA09/2018/0495/O	2 storey dwelling and garage at site adjacent to 22 Carnaman Road, Gulladuff, for Liam Duggan	APPROVE
5.6.	LA09/2018/1238/F	Retention of existing agricultural storage shed approx. 20m SW of 31A Culbane Road, Portglenone, for Mr McPeake	APPROVE

#### Matters for Information

- |   |  |           |
|---|--|-----------|
| 6 | Minutes of Planning Committee held on 7 January 2019 | 271 - 294 |
| 7 | Receive Notification of RAMSAR site                  | 295 - 312 |

**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 Consultation of draft Regional & Spatial Economic Strategy
9. Receive Enforcement Report

#### Matters for Information

10. Confidential Minutes of Planning Committee held on 7 January 2019
11. Enforcement Cases Opened
12. Enforcement Cases Closed





Development Management Officer Report  
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2016/1703/O	Target Date:
Proposal: Change of use of waste management facility for the treat and dismantling of end of life vehicles, to a residential dwelling comprising 8no units (6 semi detached and 2 apartments)	Location: 89 Clady Road Portglenone
Referral Route: Objections received	
Recommendation: Approval	
Applicant Name and Address: Mr Martin Henry 48 Glenone Road Clady	Agent Name and Address: Bannvale Architectural Services 104a Ballynease Road Portglenone BT44 8NX
Executive Summary:	
Signature(s): Lorraine Moon	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Health & Safety Executive for NI	Consulted in Error
Non Statutory	NIEA	Substantive Response Received

Representations:		
Letters of Support	None Received	
Letters of Objection	2	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
Summary of Issues Objections received		
<p>Characteristics of the Site and Area</p> <p>The proposal site is located within the village of Clady and located on the roadside. The current use of the plot is as a waste management facility for the treatment and dismantling of end of life vehicles. Although it appears that the site has been closed up there still remains a significant amount of end of life vehicles and associated scrap on site. Immediately north of the proposal site is the Clady River, the river itself is separated from the proposal site by existing fencing and a band of mature trees and vegetation. Located on the western boundary are residential units and mature vegetation while on the eastern boundary is a small paddock of overgrown land which appears to be associated with the adjacent residential property of No 87 Clady Road. The existing ground level within the proposal site sits at a lower level than the road level and the site is surrounded by fencing. Directly opposite the proposal site are further residential properties.</p>		
<p>Description of Proposal</p> <p>Change of use of waste management facility for the treatment and dismantling of end of life vehicles, to a residential dwelling comprising of 8 no. units (6 semi detached and 2 apartments).</p>		
<p>Planning Assessment of Policy and Other Material Considerations</p> <p>I have assessed this proposal under the following:</p> <p>SPSS  Magherafelt Area Plan 2015  Planning Policy Statement 1 - General Principles  Planning Policy Statement 3 - Access, Movement and Parking  Planning Policy Statement 7 - Quality Residential Environments  Planning Policy Statement 12- Housing in settlements.</p> <p>Neighbours: - Owners/Occupiers of No. 1, 2, 3, 4 &amp; 5 Lisheen Park, No. 83, 85, 87, 88, 89, 90, 91, 92, 93, 94 &amp; 95 Clady Road were notified of the proposal on 13.12.2016.</p>		

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

DfI were asked to comment and responded with no concerns subject to conditions and advice.

Environmental Health were asked to comment and responded seeking a contamination report, once this was received they were asked to comment again and responded with recommendations.

DAERA were asked to comment and responded on 11.12.2018 with advice.

Health and Safety Executive for Northern Ireland was asked to comment and responded with no issues of concern as the proposed development does not fall within the consultation zone of any major hazard.

In line with legislation this proposal was advertised in the local press on 15.12.2016.

Objections - An objection has been received from (Prof) Marie Breen-Smyth \_ Kenneth Sparks of 91 Clady Road dated 04.01.2017. Within this correspondence reference is made to the pollution of the land due to its previous use, queries regarding site boundaries, concern regarding existing crushed car stacks within the site which may pose hazard should the site be developed for residential purposes and also concerns regarding traffic and suggestions that traffic calming may be required.

Having considered all of the points raised within this correspondence I would make the following points:

- With regards potential contamination a contamination report has been received and Environmental Health consulted with such.
- Site boundaries - the objector is not stating that the boundaries indicated within this application are incorrect but rather referring to incorrect land registry maps, this matter would be considered to be a civil matter rather than one for the council.
- Crushed car stacks - should an approval be granted for housing within the proposal site it would be on the basis that the site has been cleared of all previous possible contaminants.
- Traffic calming - DfI were asked to comment on this proposal and responded on 23.01.2017 with no objections subject to conditions.

A further objection was received from Mr Richard Rowe Clady & District Angling Club dated 18.01.2017. Within this objection Mr Rowe referred to site contamination from past uses within the site and possible cross contamination into the neighbouring watercourse should the site be developed which could possibly have a 'catastrophic effect' on the 'prolific trout and salmon in the river Clady. He also mentioned that there have been previous issues with seepage etc from the proposal site. The objector also raises concern that housing should it be approved being immediately adjacent to the river and possibly causing further contamination issues and make it difficult for access to be achieved by fishermen.

As previously mentioned Environmental Health have been asked to comment on the submitted contamination report and have made recommendations on this. The submitted concept has not shown any housing backing or immediately adjacent to Clady river.

The required contamination report was initially requested from the agent on 26.01.2017. The agent (Mr Seamus Cassidy) responded on 16.02.2017 stating that the required information would be submitted within 2-3 weeks, this was not received. I rang the agent on 03.05.2017 he advised that he would chase the outstanding information. I again emailed the agent (Mr Seamus Cassidy) on 11.04.2018 and advised him that as the outstanding information had still not been received that I intended on taking the file forward to our next group meeting, the agent responded on the same day advising that he'd once again chase this outstanding information. A further email was received on 16.04.2018 from the agent advising that the contamination report would be ready within a week, nothing has been received to date. Finally the contamination report was received on 21.06.2018 and relevant bodies consulted with such.

The proposal site is within Clady as per Magherafelt Area Plan 2015. The current use of the proposal site is as a waste management facility for the treatment and dismantling of end of life vehicles. The proposal is for an outline application and so no design concepts have been included however it has been indicated that the proposal is for 6 semi-detached dwellings and 2 apartments. The site area of the proposal is stated as 0.38hectares.

According to relevant policy, planning permission will only be granted for new residential development where it is demonstrated that the proposal will create a quality and sustainable residential environment. The design and layout of residential development will require to be based on an overall design concept that draws upon the positive aspects of the character and appearance of the surrounding area. In established residential areas proposals for housing development will not be permitted where they would result in unacceptable damage to the local character, environmental quality or residential amenity of these areas. In addition all proposals for residential development will be expected to conform to all of the following criteria:

- the development respects the surrounding context and is appropriate to the character and topography of the site in terms of layout, scale, proportions, massing and appearance of buildings, structures and landscaped and hard surfaced areas - as this is an outline application no proposed design has been given. The proposed residential use would not impact on any neighbouring land uses. The levels within the proposal site currently would sit lower than the existing road level.

- 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 - there are no neighbouring recognised archaeological or built heritage features which could be affected by the proposal. Existing residential units exist to the western and eastern boundaries and directly opposite the proposal site on the opposite side of the road. On the northern boundary is the Clady river.

- adequate provision is made for public and private open space and landscaped areas as an integral part of the development. Where appropriate, planted areas or discrete groups of trees will be required along site boundaries in order to soften the visual impact of the development and assist in its integration with the surrounding area - as this proposal is an outline application no development design has been included to demonstrate and access open space provision. However the submitted concept plan

does indicate an acceptable level of private amenity space and ample separation distances between the proposed units and the existing neighbouring boundaries. Existing mature trees should be retained on the northern, western and eastern boundaries should an approval be granted.

- adequate provision is made for necessary local neighbourhood facilities, to be provided by the developer as an integral part of the development - the proposal site is located within a recognised settlement of Clady thus should an approval be granted local facilities whose be available within close proximity.

- a movement pattern is provided that supports walking and cycling, meets the needs of people whose mobility is impaired, respects existing public rights of way, provides adequate and convenient access to public transport and incorporates traffic calming measures - due to the central location there would be easy access to local public transport and also to make use of local walking and cycling facilities.

- adequate and appropriate provision is made for parking - this is an outline application thus no specific parking details have been given however in the submitted concept plan an ample parking provision has been indicated for the number of units specified.

- the design of the development draws upon the best local traditions of form, materials and detailing - no proposed design has been given for the proposed 8 units.

- 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 - Due to the existing vegetation and surrounding landform I do not feel there would be issues regarding overlooking or overshadowing onto neighbouring properties should a good design be presented. No suggested house types etc have been indicated at this stage of the process. I feel the proposal site could potentially carry 2 storey properties should an approval be offered. I would advise though that the proposed units within the concept plan numbered 3 & 4 should be fronting onto the road rather than having their rear elevation facing onto the road.

- the development is designed to deter crime and promote personal safety - as previously discussed this proposal is for an outline application and so no indication or concept has been included to demonstrate how the development would meet this criteria at this outline stage.

As proposed in the concept plan I do not consider the proposed density of housing would have a detrimental impact on the surrounding character of Clady or neighbouring land uses.

Having considered all of the above information I feel that following the submission of the required contamination report and the positive consultation responses this outline application should be considered acceptable subject to conditions.

Neighbour Notification Checked	Yes
Summary of Recommendation:	
Approval	
Conditions:	
<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> <p>i. the expiration of 5 years from the date of this permission; or</p> <p>ii. the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.</p> <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. 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.</p> <p>Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.</p>	
<p>4. THE PRIVATE STREETS (NORTHERN IRELAND) ORDER 1980 AS AMENDED BY THE PRIVATE STREETS (AMENDMENT) (NORTHERN IRELAND) ORDER 1992.</p> <p>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.</p> <p>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.</p>	
<p>5. No other development hereby permitted, shall be commenced, until the footpath has been completed in accordance with details submitted to and approved by the Council/Department. The Council/Department may attach to any determination a</p>	

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.

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

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

7. 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 Management of Land Contamination (CLR11).

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

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

8. No development or piling work should commence on this site until a piling risk assessment has been submitted in writing and agreed with the Planning Authority. Piling risk assessments should be undertaken in accordance with the methodology contained within the Environment Agency document on 'Piling and Penetrative Ground Improvement Methods on Land Affected by contamination: Guidance on Pollution Prevention' available at <http://publications.environment-agency.gov.uk/PDF/SCHO0501BITT-E-E.pdf>.

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

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

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

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



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

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

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

12. Notwithstanding the provisions of the Planning (General Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no walls or fences or other means of enclosure should be erected above 1metre in height between the properties and Clady Road without the permission of the Council and all means of enclosure shall be set back behind the visibility splays set out by this approval.

Reason: In the interests of the visual amenity of the street scape.

#### Informatives

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

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

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

All services within the development should be laid underground.  
None of the development hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans. None of the developments shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Department.  
Development shall not begin until drainage works have been carried out in accordance with details submitted to and approved in writing by the Department.

2. The purpose of the Conditions 6-8 is to ensure that any 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.

3. The applicant should ensure that the management of all materials onto and off the 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.

4. 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.

5. Certain types of work with asbestos in soils and construction and demolition (C & D) materials can only be done by those who have been issued with a licence by HSENI. This is work which meets the definition of 'licensed work with asbestos' in Regulation 2(1) of the Control of Asbestos Regulations (Northern Ireland) (2012) (the Regulations). These Regulations can be viewed at [http://www.legislation.gov.uk/nisr/2012/179/pdfs/nisr\\_20120179\\_en.pdf](http://www.legislation.gov.uk/nisr/2012/179/pdfs/nisr_20120179_en.pdf).

The Regulations and the accompanying Approved Code of Practice and guidance (The Control of Asbestos Regulations 2012: Managing and working with asbestos (L143)) apply to all work with asbestos from work with asbestos contaminated soil or C & D materials in addition to CL:AIRE's Industry Guidance entitled: Control of Asbestos Regulations 2012, Interpretation for managing and working with asbestos in soils and C & D materials 2016 that can be viewed at: <https://www.claire.co.uk/projects-and-initiatives/asbestos-in-soil>.

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

6. Prior to disposing waste materials to a suitable facility, waste classification needs to be completed of the materials either in-situ or of excavated materials in accordance with the EWC codes. Details of this classification can be found in Waste Management Paper No 3. Further information can be obtained from: <https://www.gov.uk/government/publications/waste-classification-technical-guidance>

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

Also, if the material is hazardous, it should be WAC tested to determine a suitable landfill for disposal. Note there are no landfills in Northern Ireland licensed to take non-asbestos

hazardous wastes, so this material would need to be disposed at a suitable site in England or Scotland.

7.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.

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

Signature(s)

Date:

ANNEX	
Date Valid	1st December 2016
Date First Advertised	15th December 2016
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 1 Lisheen Park Glenone Portglenone</p> <p>The Owner/Occupier, 2 Lisheen Park Glenone Portglenone</p> <p>Richard Rowe Clady &amp; District Angling Club 208 Mayogall Road Moneystaghan-Ellis Clady BALLYMENA</p> <p>The Owner/Occupier, 3 Lisheen Park Glenone Portglenone</p> <p>The Owner/Occupier, 4 Lisheen Park Glenone Portglenone</p> <p>The Owner/Occupier, 5 Lisheen Park Glenone Portglenone</p> <p>The Owner/Occupier, 83 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 85 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 87 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 88 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 89 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 90 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 91 Clady Road Glenone Portglenone</p> <p>Marie Breen-Smyth 91, Clady Road, Portglenone, Londonderry, Northern Ireland, BT44 8LB</p> <p>The Owner/Occupier, 92 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 93 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 94 Clady Road Glenone Portglenone</p> <p>The Owner/Occupier, 95 Clady Road Glenone Portglenone</p>	
Date of Last Neighbour Notification	13th December 2016

Date of EIA Determination	
ES Requested	No
<p>Planning History</p> <p>Ref ID: LA09/2016/1703/O  Proposal: Change of use of waste management facility for the treat and dismantling of end of life vehicles, to a residential dwelling comprising 8no units (6 semi detached and 2 apartments)  Address: 89 Clady Road, Portglenone,  Decision:  Decision Date:</p> <p>Ref ID: H/1974/0381  Proposal: NON-SUBSIDY  Address: CLADY ROAD, PORTGLENONE  Decision:  Decision Date:</p> <p>Ref ID: H/2007/0681  Proposal: Site for the processing, recovery, storage and sale of scrap metal (ferrous and Non-ferrous metals), including the breaking and dismantling of vehicles.  Address: 89 Clady Road, Portglenone  Decision:  Decision Date:</p> <p>Ref ID: H/1984/0135  Proposal: DOUBLE GARAGE  Address: 87 CLADY ROAD, PORTGLENONE  Decision:  Decision Date:</p> <p>Ref ID: H/1983/0499  Proposal: ALTERATIONS AND ADDITIONS TO BUNGALOW  Address: 87 CLADY ROAD, PORTGLENONE  Decision:  Decision Date:</p>	
Summary of Consultee Responses	
Drawing Numbers and Title	

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

Drawing No. 03  
Type: Technical Specification  
Status: Submitted

Drawing No. 02  
Type: Technical Specification  
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> LA09/2017/0489/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm shed for the housing of animals and storage of farm machinery	<b>Location:</b> 210m East of 91 Ballynakilly Road Coalisland BT71 6JJ
<b>Referral Route: Contrary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Gavin Quinn 9 Woodhouse Road Killycolpy Stewartstown	<b>Agent Name and Address:</b> CMI Planners 38 Airfield Road The Creagh Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Environmental Health Mid Ulster Council	
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	DAERA - Omagh	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	No Response
Statutory	DAERA - Omagh	Advice



Statutory	DAERA - Omagh	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	
<p><b>Characteristics of the Site and Area</b></p> <p>The application site is located 210m East of 91 Ballynakilly Road, COALISLAND within the townland of CREENAGH. The site is outside the settlement limits of COALISLAND as defined in the Dungannon and South Tyrone Area Plan 2010 and north-west of the settlement limit for Ballynakilly.</p> <p>The topography of the land is relatively flat. The common land use around the wider site area includes agricultural, industrial/commercial with some dispersed dwellings and farm holdings. The site is in close proximity to The McAvoy Group Ltd., that is to the West of the site outlined in red.</p> <p>The impact of the proposal [LA09/2017/0489/F] on the amenity and landscape plus character of the area is a key consideration in this area.</p>		
<p><b>Description of Proposal</b></p> <p>Proposed farm shed for the housing of animals/ sheep storage of farm machinery and animal fodder.</p> <p>The proposed farm shed has a footprint of 18450mm by 9000mm and a maximum ridge height of 5700mm. The roof will be insulated roof panels in the colour green with ridge and flashing trims also green as are cladding panel sliding doors with the walls fair facing block grey [Drawing 03 Received 4th April 2017).</p>		
<p><b>Planning Assessment of Policy and Other Material Considerations</b></p> <p>The following policy documents provide the primary policy context for the determination of this application;</p> <ol style="list-style-type: none"> <li>1. Strategic Planning Policy Statement (SPPS).</li> <li>2. Dungannon &amp; South Tyrone Area Plan 2010.</li> <li>3. Planning Policy Statement (PPS) 3 – Access, Movement and Parking.</li> <li>4. PPS 6 - Planning, Archaeology and the Built Heritage.</li> <li>5. PPS 15 - Planning and Flood Risk.</li> <li>6. PPS 21 - Sustainable Development in the Countryside.</li> </ol>		

#### Consultees:

Transportni were asked to comment and responded with no objections subject to conditions.

Environmental Health were asked to comment and responded with no objections.

DAERA were asked to comment and responded stating that the farm business is established and has been inactive since 2009. It is a category 3 business there not able to claim single farm payments. They were re consulted a second and third time with a different business id number and Dard responded stating the business has not been active for 6 years, and does not claim SFP.

#### Representations

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

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21, PPS 15 and PPS 3 have been retained under transitional arrangements. Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy.

PPS 21 sets out planning policies for development in the countryside whilst the policy provision within PPS 15 and PPS 3 deals with flood risk and access provision, respectively.

Policy CTY 1 within PPS 21 highlights that there are a number of developments which may be acceptable in the countryside. One of these is agricultural and forestry developments in accordance with Policy CTY 12.

#### CTY 12

Policy CTY 12 stipulates that planning permission will be granted for development on an active and established agricultural or forestry holding and within the amplification text it clarifies that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. Policy CTY 10 stipulates that the farm business should be both active and established for a period of at least 6 years.

The applicant, within the supporting information submitted with the application, has conceded that the proposal is for a hobby farm and that the requisite DAERA farm business ID No. have become inactive as they are unable to claim single farm payments. The supporting information outlines that the applicant has currently 6 sheep, with varying numbers from 6 to 14 at any point but is unable to expand the flock due to lack of housing. They have also submitted a record of sheep movements and a DARD letter confirming veterinarian inspections.

Whilst visiting the site I observed the grass had been harvested on the application lands and noted that the lands were in good agricultural condition.

On this basis on that above I can conclude that whilst the farm/field appears active the applicant has not been established for a period of at least 6 years. With this in mind I am not content that the agricultural holding is both active and established.

In support of adopting this approach to determining that the farm is both active and established, I would remind members of the approach taken by the PAC in two recent planning appeal decisions under 2016/A0007 and 2015/A0136. In both referenced appeals, the respective commissioners determined that although there was evidence that the appellant was actively engaged in farming activities they could not prove that they had been established for a period of at least 6 years and therefore they failed to meet the requirements of the policy.

CTY 12 includes five further criteria (a-e):

a) The proposal would provide a farm building on this farm holding for existing livestock and this would help the applicant provide facilities for livestock over the winter months. It would also provide facilities for sick and/or injured livestock. I consider that the applicant has provided sufficient evidence to confirm that the proposed farm shed (and associated facilities) would be necessary for the efficient use of the agricultural holding.

b) The proposal presents an agricultural building which is not considered uncommon within the context of this rural landscape. The materials used are similar to other types of agricultural development within this area.

The level of vegetation surrounding the site coupled with the existing pattern and type of buildings in the area are that of industrial sheds and large buildings therefore the level of impact associated with the proposal will be minimal and on that basis I consider that the proposal will not have a significant detrimental impact on the rural character of the area.

c) The proposed agricultural shed would benefit from the existence of natural vegetation and screening especially to the rear which surround the site area. As documented above, the location of other large buildings to the North West, help the proposal to fit into the wider. The proposal would not present a prominent feature in the context of this rural landscape setting and I consider it to be successfully integrated.

d) There are no sensitive natural heritage features of note within the site or the surrounding area. Therefore I consider that the proposal will not have a negative impact on any natural/historic features or monuments.

e) It is noted that the proposal is sited some 160m away from the closest unconnected residential dwelling at No. 96 Ballynakilly Road. The Council's Environmental Health Department (EHD) were consulted and returned comment on this application highlighting that they had no concerns. It is my opinion that there are no immediate neighbours that could be potentially affected by this proposal.

#### CTY 12 – Additional Requirements

In addition to that above and in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

The applicant has provided a supporting statement which identifies that there are no other buildings on the holding and that the proposal relates to the provision of a farm

building to allow for a small farm business to be able to expand. It is therefore considered that there are no other buildings on the holding or enterprise which could be used. It must be noted that there is no specific planning policy for first farm sheds for start-up farmers.

#### CTY 13 & 14

An assessment of the proposed siting of the development along with its visual and physical impact has been documented within parts b and c, above. In terms of visual integration and impact on rural character members are advised that the proposal is deemed to satisfactorily integrate into the surrounding rural landscape setting. I consider the proposal to be compliant with the policy provision contained within Policies CTY 13 and 14 of PPS 21.

#### PPS 15

Department for Infrastructure Rivers Agency were consulted and returned comment on this application. Rivers Agency have assessed the application in relation to flood risk and have outlined that the proposal is in compliance with the policy provisions contained within PPS 15 – Planning and Flood Risk.

#### PPS 3

Department for Infrastructure Roads (DFI Roads) were consulted on this application and have returned comment highlighting that they are content with the proposed access to the site and as such I consider the proposal to comply with the policy requirements contained within PPS 3 – Access, Movement and Parking.

#### Conclusion

Members are advised that the applicant has failed to demonstrate that the proposal has been established for at least 6 years and the applicant has not demonstrated why this application should be considered an exception.

Recommendation Refusal

#### Neighbour Notification Checked

**Yes**

#### Refusal Reasons

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years.

#### Signature(s)

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th April 2017
<b>Date First Advertised</b>	20th April 2017
<b>Date Last Advertised</b>	18th May 2017
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 81 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD, The Owner/Occupier, 89 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD, The Owner/Occupier, 91 Ballynakilly Road, Creenagh, Coalisland, Tyrone, BT71 6HD, The Owner/Occupier, 96 Ballynakilly Road, Ballynakilly, Coalisland, Tyrone, BT71 6HD,	
<b>Date of Last Neighbour Notification</b>	3rd May 2017
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/0489/F Proposal: Proposed farm shed for the housing of animals/ sheep storage of farm machinery and animal fodder Address: 210m East of 9 Ballynakilly Road, Coalisland, Decision: Decision Date:  Ref ID: M/1995/6162 Proposal: Industrial Development Land at Ballynakilly Road Address: Land at Ballynakilly Road Decision: Decision Date:	
<b>Drawing Numbers and Title</b>	

Drawing No. 03  
Type: Proposed Floor Plans  
Status: Submitted

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

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

**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



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

Development Management Officer Report  
Committee Application

Summary	
Committee Meeting Date:	Item Number:
Application ID: LA09/2017/0753/F	Target Date:
<b>Proposal:</b> Proposed poultry house (8000 birds) manure store and feed bin	<b>Location:</b> Lands approx. 180m North of 60 Sessiagh Scott Road Rock
<b>Referral Route:</b>  This application is being presented to Committee as three objections have been received in respect of the proposed development.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr G McGorry 66 Sessiagh Scott Road Rock	<b>Agent Name and Address:</b> Building Design Solutions 76 Main Street Pomeroy BT70 2QP
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

## Site Location Plan



## Consultations:

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



Non Statutory	Environmental Health Mid Ulster Council	Add Info Requested
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	DAERA - Omagh	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Rivers Agency	Substantive Response Received
Statutory	Environmental Health Mid Ulster Council	
Statutory	NIEA	
Statutory	NIEA	
Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	Substantive Response Received

## Representations:

Letters of Support	None Received
Letters of Objection	3
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

## Summary of Issues:

Three objections have been received in relation to this application and relate to the following issues:-

- Additional traffic and traffic safety;
- Integration potential of the site and impact on visual amenity;
- Set a precedent for additional poultry houses;
- Impact on residential amenity;
- Potential to cause pollution of the nearby watercourse;

Potential flooding issue causing the spread of pollution;  
 Potential to locate the proposed poultry unit adjacent to the existing farm buildings;

The issues relating to road safety have been considered by DfI Roads Service who have not raised any concerns.

The issue of integration is dealt with in the case officer report below.

There is an existing free range poultry unit at the end of Edendoit Road approximately 1Km to the west, so as every application is assessed on its individual merits, it is not accepted that this proposal would set a precedent for further units.

The proposed unit will be approximately 180-200m from the nearest third party dwelling. A fly management control plan was provided for consideration and Environmental Health did not raised any issues regarding detrimental impact on residential amenity by way of pests, noise or odours.

NIEA – Water management Unit considered the impacts of the proposal on the surface water environment and is content with the proposal subject to suggested conditions. No issues were raised in relation to the potential for pollution of water courses;

Regarding the issue of locating the proposed poultry unit adjacent to the existing farm buildings, the location of the proposed poultry house is located adjacent to the applicant's son's dwelling house and the applicant has given 2 reasons for this;

In order to prevent cross-contamination around the farm it is best practice for poultry operations to be located away from other farm activities; and

In the interests of poultry house security and for the welfare of the poultry within the house, it should be adequately monitored at all times. The applicant's son lives adjacent to the proposed site and he will have the main responsibility for the poultry unit and the daily operations.

#### Description of Proposal

This is a full planning application for a poultry house (8000 birds) manure store and feed bin

#### Characteristics of the site and area

The site is located in the rural area and within a large agricultural field with a road frontage along the southern boundary. The site slopes from the west towards the east. There is a wet sheugh running along the eastern side of the site and extending towards the southern boundary. There is a dry ditch along the northern boundary. There is a large stream extending along the eastern boundary of the entire field which is the boundary of the applicants land ownership. The site is reasonably well screened from view on approach from the west due to the mature vegetation and the higher ground levels towards the west, while on approach from the east the proposed building will be set against the rising ground which provides a good backcloth.

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

##### Relevant planning history

There is no planning history on this particular site.

Opposite the site a dwelling was built under LA09/2015/1078/F as a replacement dwelling for Damien McGorry. A second dwelling was also constructed adjacent to the above replacement under I/2007/0227/RM.

#### Relevant Planning Policy

The regional Development Strategy (RDS)

Cookstown Area Plan 2010- unzoned land in the open countryside.

Strategic Planning Policy Statement (SPPS)

Planning Policy Statement 2 Natural Heritage

Planning Policy Statement 3 Access, Movement and Parking

- Policy AMP 2 Access to Public Roads

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

- Policy CTY 1 Development in the Countryside

- Policy CTY 12 Agricultural and Forestry Development.

- Policy CTY 13 Integration and Design of Buildings in the Countryside

- Policy CTY 14 Rural Character

#### Consultation responses

DfI Road advised that following receipt of requested amendments that they have no objection subject to conditions to ensure the visibility splays are completed in accordance with the drawings which show 4.5m by 70m in both directions.

Environmental Health initially advised that 'In order to provide confidence to MUDCEHD that the proposal will not cause an adverse impact on residential amenity, the applicant is requested to provide a pest control management plan. This was duly provided and Environmental Health advised that they had no further issues subject to the suggested condition relating to the pest control management plan being fully implemented.

Rivers agency advised that due to an undesignated watercourse being close to the north eastern boundary of the site, they will require a 5m maintenance strip to be left clear along that boundary. A drainage assessment was also requested, however as this application does not involve a change of use involving new buildings and/or hard surfacing exceeding 1000m<sup>2</sup>, a drainage assessment is not required.

DAERA advised that the farm business has been in existence for more than 6 years and that the applicant has claimed some form of subsidy within the past 6 years and therefore on that basis the application meets the policy test regarding active and established farms.

NIEA – NED has considered the impacts of the proposal, as per the application, on the designated sites and, on the basis of the information provided is content that the proposal, is in line with DAERA's operational policy on nitrogen emissions.

Shared Environmental Services – carried out a HRA on this proposal (see file) and advised that 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.

#### Key Policy Consideration

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.

One of these types of development is agricultural and forestry development in accordance with Policy CTY 12. Provisions of SPPS do not impact on this policy.

Policy CTY 12 states that planning permission will be granted for development on an active and established agricultural and forestry holding where it is demonstrated that:

a) It is necessary for the efficient use of the agricultural holding.

The applicant has an existing farm which includes the site and adjoining lands. Details of this farm business accompany the application and DAERA have confirmed that the business ID has been in existence for more than 6 years and that the farm business claims subsidies. Therefore there is an active and established farm business. This poultry house is an investment opportunity for the applicant and I am of the opinion that this proposal supports the needs of the existing business.

b) It is appropriate to the location in terms of character and scale.

The surrounding area is rural in character. Although hen houses in general are large scale, these are agricultural buildings which are typical of the rural area. Given the nature of this proposal, and its purpose to house poultry, it is considered appropriate to the location. The materials and finishes are typical of this type of building and are acceptable in the rural area.

c) It visually integrates into the local landscape and additional landscaping is provided as necessary.

The proposed poultry shed will benefit from a backdrop of gently rising land to the north and west. It has a low ridge height and is set back approximately 120m from the public road. Access will follow an existing hedge/boundary before entering the wider part of the field to the west. The existing hedgerow to the south of the proposed unit is to be retained which will aid the integration potential of the building and therefore it is my opinion that the poultry unit will not have a detrimental impact on this area of countryside.

d) It will not have an adverse impact on the natural or built heritage.

There are no built heritage features on the site or adjacent to the site.

NIEA, Shared Environmental Services and Rivers Agency were consulted on this proposal. The Consultees considered the environmental reports, including the SCAIL report and Nutrient Management Plan, in order to assess the full impact of this proposal on the natural environment, to ensure no significant impact would result.

e) It will not result in a detrimental impact on the amenity of residential dwellings outside the holding.

Relevant neighbours have been consulted, the proposal advertised in the local press and three objections have been received. These objections are detailed in the case

officers report above. Environmental Health have been consulted and have not raised any objections regarding either odour or noise. This proposal is unlikely to result in a detrimental impact on the amenity of nearby residents if operated in accordance with best practice farm management.

In the case where a new building is proposed the following points should be met:

-There are no suitable existing buildings;

No suitable buildings exist on the applicants holding. These types of buildings need to be of a particular size, shape and internal environmental standard to create optimum conditions for laying.

-The design and materials are sympathetic to the locality;

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

-It is sited beside existing farm buildings.

The Ministers Review into the Operation of Planning Policy Statement 21 recognised there would be a significant number of planning applications for poultry houses to supply the agri-food sector. This statement does not provide any policy guidance but it does clearly recognise this industry is a key economic driver for the rural economy which I consider is supportive of this type of development. In many examples throughout Northern Ireland similar proposal have been approved where the proposed poultry house is sited away from the main grouping. This is sometimes required for bio security reasons so that cross contamination does not occur, and may be to protect surrounding residential amenity from noise and/or smell. For these reasons I find this siting acceptable in this instance and it will integrate into the landscape.

Policy CTY 13 allows for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

As detailed in my assessment above, these points have been covered.

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.

The poultry house is agricultural in nature and will benefit from an acceptable backdrop gently rising ground in addition to the mature conifer trees. The character of this area will still remain rural and the proposal will not cause a detrimental change to the rural character of this area.

Having weighted up the above policy and material considerations I am of the opinion that this application should be recommended for approval subject to the following conditions.

It is worth noting that an EIA screening exercise was also carried out and given that the proposal is unlikely to have a significant environmental impact, the need for an ES was screened out.

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

#### Conditions

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

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

2. The vehicular access, including visibility splays of 4.5m x 70m in both directions, shall be in place, in accordance with Drawing No. 02/2 received 27th November 2017, prior to the commencement of any other works or other development hereby permitted.

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

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

4. The steps outlined in the Fly Management Control Plan received 22nd September 2017 shall be fully implemented. A record of all checks for pests, and treatments carried out should be kept in a suitable logbook, and the logbook stored on site at all times.

Reason: In the interest of residential amenity.

5. The applicant must adhere to all mitigation and disposal methods for poultry litter generated by this proposal as detailed in the document "letters" stamped received 15th May 2017.

Reason: To ensure that the poultry litter arising from this proposal will be utilised in a sustainable manner and in compliance with legislative requirements, therefore providing protection of the aquatic environment.

6. The maximum number of poultry within the proposed facility shall not exceed 8,000 layers, as stated in the application.

Reason: To ensure that the development does not result in any significant effect on the features of any European site.

ANNEX	
Date Valid	31st May 2017
Date First Advertised	15th June 2017
Date Last Advertised	
Details of Neighbour Notification (all addresses) Colm McCluskey 57 Sessiagh Scott Road, Knockavaddy, Dungannon, Tyrone, BT70 3JS The Owner/Occupier, 58 Sessiagh Scott Road Knockavaddy Dungannon The Owner/Occupier, 60 Sessiagh Scott Road, Knockavaddy, Dungannon, Tyrone, BT70 3JS, The Owner/Occupier, No Address Provided The Owner/Occupier, No Address Provided	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History  Ref ID: LA09/2017/0753/F Proposal: Proposed poultry house (8000 birds ) manure store and feed bin Address: Lands approx. 180m North of 60 Sessiagh Scott Road, Rock, Decision: Decision Date:  Ref ID: I/2002/0384/O Proposal: Proposed dwelling Address: Adjacent to 60 Sessiagh Scott Road, Dungannon Decision: Decision Date: 16.08.2002	
Summary of Consultee Responses  All consultees responded positively.	

Drawing Numbers and Title
<p>Drawing No. 01 Type: Site Location Plan Status: Approved</p> <p>Drawing No. 02/2 Type: Site Layout or Block Plan Status: Approved</p> <p>Drawing No. 03 Type: Proposed Plans Status: Approved</p> <p>Drawing No. 04 Type: Proposed Elevations Status: Approved</p> <p>Drawing No. 05 Type: Proposed Elevations Status: Approved</p> <p>Drawing No. 06 Type: Farm Boundary Map Status: Submitted</p>
<p>Notification to Department (if relevant)</p> <p>Date of Notification to Department: Response of Department:</p>





### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th March 2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/0806/F	<b>Target Date:</b>
<b>Proposal:</b> Farm diversification proposal comprising 5 no. self-catering holiday units.( amended description)	<b>Location:</b> 9 Mill Road Killucan Cookstown
<b>Referral Route:</b>  Exception to policy.	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Kieran Small 301 Drum Road Cookstown BT80 9JJ	<b>Agent Name and Address:</b> O'Toole & Starkey Arthur House 41 Arthur Street Belfast BT1 4GB
<b>Executive Summary: Approval recommended with conditions</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Non Statutory	Rivers Agency	Substantive Response Received
Non Statutory	Shared Environmental Services	Add Info Requested
Non Statutory	Shared Environmental Services	
Non Statutory	NIEA	
Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	DAERA - Omagh	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Environmental Health Mid Ulster Council	
Non Statutory	Rivers Agency	Substantive Response Received

Non Statutory	Shared Environmental Services	Substantive Response Received
Non Statutory	NIEA	Substantive Response Received
Non Statutory	Shared Environmental Services	
Non Statutory	Shared Environmental Services	
Non Statutory	NIEA	
<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 at 9 Mill Road and the land to the south and south west of it. There is an existing large currently using the access point and an approved dwelling and front garden to its south. The access run will between the shed and the dwelling mentioned. To the rear of the site is a field in part and dense planting.</p> <p>The northern boundary runs along the Ballinderry River.</p> <p>There was a dwelling constructed, but not occupied, to the south of the site, at the time of a site visit on 10.12.18.</p>		
<b>Description of Proposal</b>		
Farm diversification proposal comprising 5 no. self-catering holiday units.( amended description from 5 no fishing lodges)		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
PPS21 - Policy CTY11 - Farm Diversification & PPS16 - Tourism are the relevant policies of this type of development, and the agent has submitted an argument under both policies.		
<b>PPS16 - Tourism</b>		
As mentioned above, PPS16, under paragraph 5.4 mentions multiple (3 or more) new build self-catering accommodation. This relates to existing policy provision for tourism development in the countryside. TSM 5 & 7 are relevant in this case.		

TSM5 - self-catering accommodation in the countryside, states permission will be granted for self-catering units in any of the following circumstance;

In terms of criteria (b), a cluster of 3 or more units are to be provided at or close to an existing or approved tourist amenity that is/will be a significant visitor attraction in its own right. The site is close to Drum Manor Forest, Davagh Forest, Riverside Walk & Stone Circles. These are significant tourist attractions which are in close proximity to the site, but as in line with policy, they are subsidiary in scale and ancillary to any primary tourism use of the site.

However the closest tourism/visitor attraction would be the location to the Upper Ballinderry River and the fishing it would provide for any visitors. Also the Riverside Walk to close by and when followed including existing chalet bungalows, fishing points and a picnic area, already bring tourists into the area.

These proposed self-catering units will be retained in tourism use and not used for permanent residential accommodation, and a condition will be attached.

The overall design of the scheme, including layout, provision of open space, and size and detailed design of the units would ensure these are kept as tourism units, and are of a similar design to those previously approved in other areas. Permitted development rights will also be removed from any approval.

A business plan has been submitted to support the application as holiday accommodation. It advises of the activities available in the area and places to visit near to the proposed units. Their research shows there is a growing demand for short breaks in rural areas. Also this will create local jobs, including a cleaner, groundsman and administrator role.

### **TSM7 - Criteria for tourism development**

A proposal for tourism use, in addition to the other policy provisions of PPS16, will be subject to design criteria;

- (a) 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;
- (b) the site layout, building design, associated infrastructure and landscaping arrangements (including flood lighting) are of high quality in accordance with the Department's published guidance and assist the promotion of sustainability and biodiversity;
- (c) appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are screened from public view;
- (d) utilisation of sustainable drainage systems where feasible and practicable to ensure that surface water run-off is managed in a sustainable way;
- (e) is designed to deter crime and promote personal safety;
- (f) development involving public art, where it is linked to a tourism development, needs to be of high quality, to complement the design of associated buildings and to respect the surrounding site context.

In addition to the above design criteria, a proposal will also be subject to the following general criteria (g – o).

**General Criteria-**

- (g) it is compatible with surrounding land uses and neither the use or built form will detract from the landscape quality and character of the surrounding area;
- (h) it does not harm the amenities of nearby residents;
- (i) it does not adversely affect features of the natural or built heritage;
- (j) it is capable of dealing with any emission or effluent in accordance with legislative requirements. The safeguarding of water quality through adequate means of sewage disposal is of particular importance and accordingly mains sewerage and water supply services must be utilised where available and practicable;
- (k) access arrangements must be in accordance with the Department's published guidance;
- (l) access to the public road will not prejudice road safety or significantly inconvenience the flow of traffic;
- (m) the existing road network can safely handle any extra vehicular traffic the proposal will generate;
- (n) access onto a protected route for a tourism development in the countryside is in accordance with the amendment to Policy AMP 3 of PPS 3, as set out in Annex 1 of PPS21.
- (o) it does not extinguish or significantly constrain an existing or planned public access to the coastline or a tourism asset, unless a suitable alternative is provided;

All these are met and therefore the policy meets the relevant criteria of TSM7.

**PPS21 - Policy CTY11 - Farm Diversification.**

Planning permission will be granted for a farm or forestry diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. Certain criteria will apply;

- (a) the farm or forestry business is currently active and established -  
Following the submission of farm maps and details DEARA have confirmed the farm business has been in existence for more than 6 years and has received single farm payment in the last 6 years.
- (b) in terms of character and scale it is appropriate to its location.  
The proposal is for 5no units, which are located in a semi-circle, with parking area in the middle facing the River. They have a ridge of 5.7m at their highest point, the roof is natural grey slates, with black aluminium windows and cedar timber cladding finish. This is an acceptable design for this rural location, and would not be out of keeping in relation to scale of development in the surrounding area.
- (c) it will not have an adverse impact on the natural or built heritage  
No issue in terms of built heritage.

The site is in close proximity to Upper Ballinderry River SAC and ASSI.  
An otter report has been submitted and in the surrounding area it found evidence of otter activity. Mitigation measures outlined should be adhered to.

NED also acknowledge the Flood Risk Assessment, and the 1 in 100 year pluvial floodplain extends into the northern portion of the site, however the 1 in 200 year is adjacent to the northern boundary but does not extend into the proposed development area. Rivers also have accepted the logic of the flood risk assessment and have no reason to object to it.

NIEA, Natural Env Division, has considered the impacts of the proposal on designated sites and other natural heritage interests and on the basis of the information provided, has no concerns, subject to conditions and recommendations made.

Shared Env Services have considered the application in light of the Conservation (Natural Habitats) Regs (NI) 1995, and having considered the nature, scale, timing, duration and location of the project, provided the mitigation is conditioned the proposal would not have any adverse effect on site integrity of any European site.

(d) it will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

The Environmental Health Department has no objection in principle to the above proposed development subject to informatives.

DFI Roads has no objections subject to conditions.

Proposals will only be acceptable where they involve the re-use or adaptation of existing farm buildings.

CTY11 states that 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, or they are clearly unsuitable for adaptation and re-use, or cannot be adapted to meeting the requirements of other statutory agencies. Although the policy states 'a new building', and this proposal is for 5 new buildings, PPS16 mentions, under paragraph 5.4, multiple (3 or more ) new build self-catering accommodation and links back to CTY11 stating exceptionally a new building, so I feel this is in the spirit of the policy to accept more than one building in appropriate circumstances.

In this case on the farm holding, there is only the existing farm shed in between the two dwellings, and it could not be adapted to meet the needs of this proposal. It is a large double height portal frame building corrugated metal, no damp proofing and no insulation. It would not be reasonably capable of being converted into an acceptable sized and scaled self-catering unit.

Where a new building is justified, policy states it should be satisfactorily integrated with an existing group of buildings.

In this case, to the east, are existing dwelling and sheds, which would integrate with the 5 new units. There will be a degree of planting provided along the southern boundary providing a buffer zone.

On balance when assessed under both relevant policies, an approval is recommended with conditions.

Neighbour Notification Checked	Yes
<b>Summary of Recommendation:</b>  Approve with conditions	
<b>Conditions</b>  1. The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.  Reason: As required by Section 61 of the Planning Act (Northern Ireland) 2011.  2. The vehicular access, including visibility splays of 2.4m x 70m in both directions, shall be in place, in accordance with Drawing No. 02 (Rev-12) bearing the date stamp 15th November 2018, prior to the commencement of any other works or other development hereby permitted.  Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.  3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.  Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.  4. A land buffer of at least 10m must be maintained between the location of all construction works including refuelling, storage of oil/fuel, concrete mixing and washing areas, storage of machinery/material/spoil etc. and the adjacent River.  Reason: To protect Upper Ballinderry River SAC from adverse impacts due to polluting discharges at construction phase.  5. All refuelling, storage of oil/fuel, concrete mixing and washing areas shall be positioned outside the fluvial floodplain (as indicated within the Flood Risk Assessment, January 2018).  Reason: to protect the site selection features of the Upper Ballinderry River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI).  6. Formation of soil ramps in any open excavation shall be undertaken at the end of each working day.	

Reason: to protect the site selection features of the Upper Ballinderry River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI).

7. Construction activities shall take place only during hours of daylight and there shall be no use of artificial lighting during construction.

Reason: to protect the site selection features of the Upper Ballinderry River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI).

8. There shall be no external lighting on the site until a Lighting Plan has been submitted to and approved in writing by the Planning Authority. The approved Lighting Plan shall be implemented in accordance with the approved details, unless otherwise agreed in writing by the Planning Authority. The Lighting Plan shall include the following:

a) Specifications of any external lighting to be used across the site.

b) A map showing predicted light spillage across the site (isolux drawing).

Natural Heritage

c) All measures to mitigate for the impacts of artificial lighting on wildlife, including otters. This shall include the maintenance of an appropriate dark corridor along the Upper Ballinderry River within which there shall be no light spillage from artificial lighting.

Reason: to protect Northern Ireland protected and priority species and the site selection features of the Upper Ballinderry River Special Area of Conservation (SAC) and Area of Special Scientific Interest (ASSI).

9. During the first available planting season after the occupation of the building for its permitted use, trees shall be planted along the existing boundary(ies) of the site in accordance with a scheme submitted to and approved by the Department

Reason: [n the interest of visual amenity. And to ensure the development integrates into the countryside

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

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

11. The units hereby permitted shall be used only for holiday accommodation and shall not be used for permanent residence(s).

Reason: The site is located within a rural area where it is the policy of the Council to restrict development and this consent is hereby granted solely because of its proposed holiday use.

12. Notwithstanding the provisions of the Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and/or re-enacting that Order, no



extension or enlargement (including alteration to roofs) shall be made to the units hereby permitted without the grant of a separate planning permission from the Council.

Reason: The further extension of this (these) dwelling(s) requires detailed consideration to safeguard the amenities of the surrounding area.

### **Informatives**

1. 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.

2. 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.

3. 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.

4. 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.

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

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	13th June 2017
<b>Date First Advertised</b>	29th June 2017
<b>Date Last Advertised</b>	20th December 2018
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 7 Mill Road,Dungate,Cookstown,Tyrone,BT80 9NU, The Owner/Occupier, 9 Mill Road,Killucan,Cookstown,Tyrone,BT80 9NU, The Owner/Occupier, 9a Mill Road,Dungate,Cookstown,Tyrone,BT80 9NU,	
<b>Date of Last Neighbour Notification</b>	6th December 2018
<b>Date of EIA Determination</b>	n/a
<b>ES Requested</b>	No



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

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1196/A	<b>Target Date:</b>
<b>Proposal:</b> Business signage; including signage on South & West Elevations and free standing sign in front of building	<b>Location:</b> 15-17 Church Street Magherafelt
<b>Referral Route:</b> Contrary to AD 1 of PPS 17 and BH11 of PPS 6.	
<b>Recommendation:</b>	<b>Refuse</b>
<b>Applicant Name and Address:</b> Danny Mulholland Mid Ulster Back Care and Physiotherapy 15-17 Church Street Magherafelt	<b>Agent Name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### 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
<b>Summary of Issues:</b> None	
<b>Characteristics of the Site and Area</b> The site is located within the development limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The site is located at 15 - 17 Church Street Magherafelt and contains a large two storey building. The building is located at the end of terrace row with dual frontage onto both Church Street and King Street. The area is characterised by a mix of uses including retail, office and residential uses.	
<b>Description of Proposal</b> The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for retention of business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance.	
<b>Planning Assessment of Policy and Other Material Considerations</b>  <b>Relevant Planning History</b> LA09/2016/0725/F - Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt. Approved 24th May 17. LA09/2017/0087/CA – An enforcement case for unauthorised signage is ongoing. Further action will depend on the outcome of subject planning application LA0/2017/1196/A and LA09/2018/1521/LBC.  <b>Representations:</b> No neighbours notified under an advertisement application No letter of representation have been received  <b>Development Plan, Legislation and Key Policy Consideration</b> The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance.  <b>Magherafelt Town Centre: Design Guide</b> – Section 7 deals with signage and advertisement, paragraph 7.1 state that signage and advertisements within the Town Centre the proportion of a sign must relate to the elevation on which it is placed. If a sign is too large it can disrupt the appearance of a building and also of the street scene in general while if too small it can be insignificant and ineffective.  <b>Legislation:</b> Section 130 of The Planning Act (Northern Ireland) 2011 refers to The Planning (Control of Outdoor Advertisements) Regulations (Northern Ireland) 2015 and Section 80 of the Planning Act (Northern Ireland) 2011 refers to The Planning (Listed Building) Regulations (Northern Ireland) 2015  <b>Planning Policy:</b> The primary policy context is provided by Policy AD 1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent	

will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality and it does not prejudice public safety. Policy BH9 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that consent for advertisement or signs on a listed building where they are design and located to respect the architectural form and detailing of the building and Policy BH11 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that development proposals will normally only be considered appropriate where all the following criteria are met:

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

### Amenity and Impact on a Listed Building

**SIGN 1:** Is a small signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on the first floor west elevation:-



It is my opinion that the small signage text on the west elevation respects the amenity of the local area and has been carefully designed and located to respect the architectural form and detailing of the building. Historic Buildings advise that they are also content with the small signage text.

**SIGN 2:** Is a freestanding sign located in a corner plot at the front of the premises sited between ornate cast iron railing and two ground floor windows. The sign is 1500mm above ground level and mounted on three 80mm box section steel poles supporting two 1110mm x 950 signs:-



Historic Buildings advise that the large free standing at 2450mm high is a dominant feature and detracts from and obscures the listed building street frontage. The Council also supports Historic Buildings viewpoint and whilst their consultation response did not request that the sign be removed, given that the sign has already been erected the only way to move forward is for the sign to be removed from the proposal. The applicant was contacted on 1st November 2018 and advised to remove the free standing from the proposal. The applicant responded on the 5th November arguing that the historic architectural detailing of this building are at a very basic level and that the sign will not have an impact on important historic features which can still be viewed while moving around this corner of the property. It is acknowledged that the sign is not attached to the building, however the close proximity is such that a substantial element of the façade is masked. It is my opinion that the advertisement is contrary to policy AD1 of PPS 17 as it does not respect amenity, when assessed in the context of the general characteristics of the locality and as a result, the freestanding sign is contrary to BH 11 of PPS 6 in that it adversely affects the setting of a listed building.

However, as an alternative the Council will consider an appropriate hanging sign on the front facade similar to the image below. This type of traditional sign would help to complement the historic importance of the building and the area.



**SIGN 3:** Is a large signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on south (gable) elevation:-



Historic Buildings has requested that the large signage text on the south elevation should be reduced in scale and size. However, the Council does not share Historic

Buildings viewpoint because the signage text on the gable façade replaced previous signage text albeit the lettering is slightly larger than the previous sign. In addition, the signage text is located on a less prominent elevation and as a result can only be viewed when travelling in a north-westerly direction along King Street towards the town centre. Therefore, it is my opinion that the large signage text on the west elevation respects the amenity of the local area and has been designed and located to respect the architectural form and detailing of the building.

### Deemed Consent

The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 Schedule 3 Regulation 5 – Part 1 – Classes of Advertisement which may be displayed with deemed consent.

Class 5 - Advertisements (other than illuminated advertisements) on business premises is pertinent to **SIGN 1 & SIGN 3**, however both signs are not permitted by Class 5 for the following reasons:

- 1.the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).
2. the sign is higher than the bottom of the first floor window on the wall on which the advertisement is displayed - condition (d).

Class 6 - An advertisement on a forecourt of business premises is pertinent to **SIGN 2**, however the sign is not permitted by Class 6 for the following reason:

- 1.the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).

### Public Safety

Transport NI have responded with no objections to the proposal subject to a number of informatives, mainly in relation to the illuminated part of the proposed signage and therefore public safety is not considered an issue.

**Neighbour Notification Checked**      **N/A**

**Summary of Recommendation:** The proposal is contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual and residential amenity of the locality. The proposal is also contrary to policy BH 11 of PPS 6 in that it would, if approved, adversely affect the setting of a listed building.

### Reasons for Refusal:

#### Refusal Reasons

1.The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018, does not respect amenity, when assessed in the context of the general characteristics of the locality.

2.The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the



Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018 would adversely affects the setting of a listed building.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	6th September 2017
<b>Date First Advertised</b>	
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2017/1196/A Proposal: Buisness signage on South and West elevations, banner on railings and free standing sign in front of building Address: 15-17 Church Street, Magherafelt, Decision: Decision Date:  Ref ID: H/2007/1100/F Proposal: Mixed use development incorporating ground floor retail units at nos 17 to 21, first floor office accommodation at nos 17 to 21 and apartment to rear of 17 to 21 Address: 17-21 Church Street, Magherafelt Decision: Decision Date: 26.02.2009  Ref ID: H/1993/0099 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING(LBC) Address: 15-17 CHURCH STREET MAGHERAFELT Decision: Decision Date:  Ref ID: H/1993/0098 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING WORKSHOP Address: 15-17 CHURCH STREET MAGHERAFELT Decision: Decision Date:  Ref ID: H/2007/0920/LB	

Proposal: Mixed used development incorporating ground floor retail units at 17-21, first floor office accommodation and apartment to rear of 17-21

Address: 17-21 Church Street, Magherafelt

Decision:

Decision Date: 26.02.2009

Ref ID: LA09/2016/0725/F

Proposal: Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt

Address: 15 - 17 Church Street Magherafelt,

Decision: PG

Decision Date: 30.05.2017

Ref ID: LA09/2016/0723/LBC

Proposal: New doorway to 15 Church Street to provide access to new apartment above No's 15 and 17. Amendment to existing stair to provide access to apartment. Removal of existing wall in No 17 and breaking through to create internal toilet area for the existing commercial unit

Address: 15-17 Church Street, Magherafelt,

Decision: CG

Decision Date: 24.05.2017

Ref ID: LA09/2015/0996/LBC

Proposal: Internal fit out of 19 with demolition and replacement of rear return for structural reasons

Address: 19-21 Church Street, Magherafelt, BT45 6AP,

Decision: CG

Decision Date: 03.06.2016

Ref ID: LA09/2015/0880/F

Proposal: Proposed new lounge and waiting area with external dining garden, associated toilets and serving area.

Address: 19-23 Church Street, Magherafelt, BT45 6AP,

Decision: PG

Decision Date: 03.06.2016

### **Summary of Consultee Responses**

**Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Proposed Elevations

Status: Submitted

Drawing No. 03 Rev 1

Type: Sign Details

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> LA09/2018/1521/LBC	<b>Target Date:</b>
<b>Proposal:</b> Business signage; including signage on South & West Elevations and free standing sign in front of building	<b>Location:</b> 15-17 Church Street Magherafelt
<b>Referral Route:</b> Contrary to AD 1 of PPS 17 and BH11 of PPS 6.	
<b>Recommendation:</b>	<b>Refuse</b>
<b>Applicant Name and Address:</b> Mid Ulster Back Care & Physiotherapy 15-17 Church Street Magherafelt BT45 6AP	<b>Agent Name and Address:</b> McGurk Architects 33 King Street Magherafelt BT45 6AR
<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:** None

### Characteristics of the Site and Area

The site is located within the development limits of Magherafelt as defined by the Magherafelt Area Plan 2015. The site is located at 15 - 17 Church Street Magherafelt and contains a large two storey building. The building is located at the end of terrace row with dual frontage onto both Church Street and King Street. The area is characterised by a mix of uses including retail, office and residential uses.

**Description of Proposal**

The site (existing building) is within the development limits of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for retention of business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance

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

LA09/2016/0725/F - Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt. Approved 24th May 17.  
 LA09/2017/0087/CA – An enforcement case for unauthorised signage is ongoing. Further action will depend on the outcome of subject planning application  
 LA0/2017/1196/A and LA09/2018/1521/LBC.

**Representations:**

No neighbours notified under an Advertisement Consent application  
 No letter of representation have been received

**Development Plan, Legislation and Key Policy Consideration**

The site (existing building) is within the Town Centre designations of Magherafelt in accordance with the Magherafelt Area Plan 2015. The application is for business signage on the south & west elevations and a freestanding sign in front of building No 17 Church Street, Magherafelt (Grade B1) which is of special architectural and historic importance.

**Magherafelt Town Centre: Design Guide** – Section 7 deals with signage and advertisement, paragraph 7.1 state that signage and advertisements within the Town Centre the proportion of a sign must relate to the elevation on which it is placed. If a sign is too large it can disrupt the appearance of a building and also of the street scene in general while if too small it can be insignificant and ineffective.

**Legislation:**

Section 130 of The Planning Act (Northern Ireland) 2011 refers to The Planning (Control of Outdoor Advertisements) Regulations (Northern Ireland) 2015 and Section 80 of the Planning Act (Northern Ireland) 2011 refers to The Planning (Listed Building) Regulations (Northern Ireland) 2015

**Planning Policy:**

The primary policy context is provided by Policy AD 1 of Planning Policy Statement 17: Control of Outdoor Advertisement (PPS 17). Policy AD 1 of PPS 17 states that consent will be given for the display of an advertisement where it respects amenity, when assessed in the context of the general characteristics of the locality and it does not prejudice public safety. Policy BH9 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that consent for advertisement or signs on a listed building where they are design and located to respect the architectural form and detailing of the building and Policy BH11 of Planning Policy Statement 6 Planning Archaeology and the Built Heritage states that development proposals will normally only be considered appropriate where all the following criteria are met:

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

### Amenity and Impact on a Listed Building

**SIGN 1:** Is a small signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on the first floor west elevation:-



It is my opinion that the small signage text on the west elevation respects the amenity of the local area and has been carefully designed and located to respect the architectural form and detailing of the building. Historic Buildings advise that they are also content with the small signage text.

**SIGN 2:** Is a freestanding sign located in a corner plot at the front of the premises sited between ornate cast iron railing and two ground floor windows. The sign is 1500mm above ground level and mounted on three 80mm box section steel poles supporting two 1110mm x 950 signs:-



Historic Buildings advise that the large free standing at 2450mm high is a dominant feature and detracts from and obscures the listed building street frontage. The Council also supports Historic Buildings viewpoint and whilst their consultation response did not request that the sign be removed, given that the sign has already been erected the only way to move forward is for the sign to be removed from the proposal. The applicant was contacted on 1st November 2018 and advised to remove the free standing from the proposal. The applicant responded on the 5th November arguing that the historic



architectural detailing of this building are at a very basic level and that the sign will not have an impact on important historic features which can still be viewed while moving around this corner of the property. It is acknowledged that the sign is not attached to the building, however the close proximity is such that a substantial element of the façade is masked. It is my opinion that the advertisement is contrary to policy AD1 of PPS 17 as it does not respect amenity, when assessed in the context of the general characteristics of the locality and as a result, the freestanding sign is contrary to BH 11 of PPS 6 in that it adversely affects the setting of a listed building.

However, as an alternative the Council will consider an appropriate hanging sign on the front facade similar to the image below. This type of traditional sign would help to complement the historic importance of the building and the area.



**SIGN 3:** Is a large signage text with the wording 'Mid Ulster Back Care and Physiotherapy Centre' in small black lettering located on south (gable) elevation:-



Historic Buildings has requested that the large signage text on the south elevation should be reduced in scale and size. However, the Council does not share Historic Buildings viewpoint because the signage text on the gable façade replaced previous signage text albeit the lettering is slightly larger than the previous sign. In addition, the signage text is located on a less prominent elevation and as a result can only be viewed when travelling in a north-westerly direction along King Street towards the town centre. Therefore, it is my opinion that the large signage text on the west elevation respects the amenity of the local area and has been designed and located to respect the architectural form and detailing of the building.

**Deemed Consent**

The Planning (Control of Advertisements) Regulations (Northern Ireland) 2015 Schedule 3 Regulation 5 – Part 1 – Classes of Advertisement which may be displayed with deemed consent.

Class 5 - Advertisements (other than illuminated advertisements) on business premises is pertinent to **SIGN 1** & **SIGN 3**, however both signs are not permitted by Class 5 for the following reasons:

- 1.the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).
2. the sign is higher than the bottom of the first floor window on the wall on which the advertisement is displayed - condition (d).

Class 6 - An advertisement on a forecourt of business premises is pertinent to **SIGN 2**, however the sign is not permitted by Class 6 for the following reason:

- 1.the 'spinal cord symbol' on the wall is more than 0.3m in height - condition (c).

**Public Safety**

Transport NI have responded with no objections to the proposal subject to a number of informatives, mainly in relation to the illuminated part of the proposed signage and therefore public safety is not considered an issue.

**Neighbour Notification Checked**      **N/A**

**Summary of Recommendation:** The proposal is contrary to policy AD1 of PPS17 in that it would, if approved, adversely impact upon the visual and residential amenity of the locality. The proposal is also contrary to policy BH 11 of PPS 6 in that it would, if approved, adversely affect the setting of a listed building.

**Reasons for Refusal:**

## Refusal Reasons

- 1.The proposal is contrary to Policy AD1 of Planning Policy Statement 17, Control of Outdoor Advertisements, in that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018, does not respect amenity, when assessed in the context of the general characteristics of the locality.
- 2.The proposal is contrary to Policy BH11 of Planning Policy Statement 6: Planning, Archaeology and the Built Heritage in that the building is listed under Section 80 of the Planning Act (Northern Ireland) 2011 and that the freestanding as identified on drawing No 03 Rev 1, which was received on 14th November 2018 would adversely affects the setting of a listed building.

**Signature(s)**

**Date:**



ANNEX	
<b>Date Valid</b>	14th November 2018
<b>Date First Advertised</b>	29th November 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1521/LBC Proposal: Business signage; including signage on South & West Elevations and free standing sign in front of building Address: 15-17 Church Street, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2017/1196/A Proposal: Business signage; including signage on South & West Elevations and free standing sign in front of building Address: 15-17 Church Street, Magherafelt, Decision: CG Decision Date:  Ref ID: H/2007/1100/F Proposal: Mixed use development incorporating ground floor retail units at nos 17 to 21, first floor office accommodation at nos 17 to 21 and apartment to rear of 17 to 21 Address: 17-21 Church Street, Magherafelt Decision: Decision Date: 26.02.2009  Ref ID: H/1993/0099 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING(LBC) Address: 15-17 CHURCH STREET MAGHERAFELT Decision: Decision Date:  Ref ID: H/1993/0098 Proposal: CHANGE OF USE TO ART GALLERY AND PICTURE FRAMING	

**WORKSHOP**

Address: 15-17 CHURCH STREET MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2007/0920/LB

Proposal: Mixed used development incorporating ground floor retail units at 17-21, first floor office accommodation and apartment to rear of 17-21

Address: 17-21 Church Street, Magherafelt

Decision:

Decision Date: 26.02.2009

Ref ID: LA09/2015/0996/LBC

Proposal: Internal fit out of 19 with demolition and replacement of rear return for structural reasons

Address: 19-21 Church Street, Magherafelt, BT45 6AP,

Decision: CG

Decision Date: 03.06.2016

Ref ID: LA09/2016/0725/F

Proposal: Proposed alterations to provide new residential apartment above existing commercial units at 15 - 17 Church Street Magherafelt

Address: 15 - 17 Church Street Magherafelt,

Decision: PG

Decision Date: 30.05.2017

Ref ID: LA09/2016/0723/LBC

Proposal: New doorway to 15 Church Street to provide access to new apartment above No's 15 and 17. Amendment to existing stair to provide access to apartment. Removal of existing wall in No 17 and breaking through to create internal toilet area for the existing commercial unit

Address: 15-17 Church Street, Magherafelt,

Decision: CG

Decision Date: 24.05.2017

**Summary of Consultee Responses**

**Drawing Numbers and Title**

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

Drawing No. 02  
Type: Proposed Elevations  
Status: Submitted

Drawing No. 03 Rev 1  
Type: Proposed Elevations  
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> LA09/2017/1532/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed farm building	<b>Location:</b> 40m N.W. of 81 Killyliss Road Dungannon
<b>Referral Route: Objections received</b>	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr Gary Mc Cann 54 Kilnacart Road Dungannon	<b>Agent Name and Address:</b> Carol Gourley, C McIlvar Ltd Unit 7 Cookstown Enterprise Centre Sandholes Road Cookstown BT80 9LU
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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



Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Shared Environmental Services	No Objection
Statutory	NIEA	Advice
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	NIEA	Advice
Non Statutory	Shared Environmental Services	
Statutory	NIEA	

**Representations:**

Letters of Support	1
Letters of Objection	2
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

2 representations were made by the same objector.

The main concerns included;

- False case of need.
- Shed industrial in nature and isze,
- Removal of vegetation for splays,
- Proximity to neighbouring dwelling raising odour and noise nuisance,
- Shed removed from an agricultural grouping.

**Characteristics of the Site and Area**

The application site is located at 40m NW of 81 Killyliss Road, Dungannon. It is in an area which is largely characterised by agricultural land, farm holdings and dispersed settlement. The site can be divided into two sections. There is a narrow rectangular front section along the roadside and a longer section of agricultural field to the rear where the proposed shed is to be sited. The land is relatively flat and is enclosed by a mix of mature native species hedgerows and trees. At the time of site visit there was mounds of soil, piles of rubble and a lorry container on the site. There are the foundations of a dwelling to the North and a relatively new dwelling further north of this.

The area is predominantly rural in nature with a scattering of dwellings and farm holdings located within the surrounding vicinity. It is located within the open countryside outside all other areas of constraint as depicted by the Dungannon Area Plan 2010. It is situated approximately 1.65km north west of the village of Eglis.

**History**

LA09/2016/1034/O; Refusal for a second dwelling on the site.

LA09/2015/0136/CA: Creation of two separate planning units - 75 Killyliss

Road, Derrygortrevy, Dungannon, Tyrone, BT70 1NX - RECEIPT OF PLANNING APPLICATION

M/2014/0295/F: Construction of two 2 storey dwellings with detached garages and associated site works - change of previously approved house types - 75 Killyliss Road, Dungannon.

APPROVED

M/2009/0417/RM: Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage - 75 Killyliss Road, Dungannon. APPROVED

M/2009/0408/F: Proposed two storey dwelling and garage - 50m North West of 75 Killyliss Road Dungannon. APPROVED

**Description of Proposal**

The proposal seeks full planning permission for farm building

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

The principal planning policies are provided by the SPPS, PPS 21, PPS 15, PPS 6 and PPS 3.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21, PPS 15 and PPS 3 have been retained under transitional arrangements. Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy.

PPS 21 sets out planning policies for development in the countryside whilst the policy provision within PPS 15 and PPS 3 deals with flood risk and access provision, respectively.

Policy CTY 1 within PPS 21 highlights that there are a number of developments which may be acceptable in the countryside. One of these is agricultural and forestry developments in accordance with Policy CTY 12.

**CONSULTATIONS**

- NI Water – No objections subject to conditions
- DFC Historic Environment Division – No objections
- DFI Roads – No objections subject to conditions
- DAERA - Category 1 Business since March 2013 (5 years 11 months). SAF claimed for BPS 2015 to 2018. Evidence supplied to show continuous farming activity for a period of over 6 years.
- NIEA (Natural heritage and conservation) – No objections subject to conditions.
- Shared Env Services – No objections
- Environmental Health – No Objections

**CTY 12**

Policy CTY 12 stipulates that planning permission will be granted for development on an active and established agricultural or forestry holding and within the amplification text, it clarifies that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. Policy CTY 10 stipulates that the farm business should be both active and established for a period of at least 6 years.

The applicant, within the supporting information submitted with the application, has conceded that the farm ID has not been established for 6 years, albeit one month short at the time of writing, however, DAERA were consulted on this application and advised the farm business ID quoted on the accompanying P1C Form has been in existence since March 2013. This fails to demonstrate an active and established farm business for a minimum of six years, which is necessary under CTY 10. The applicant has provided supplementary information to demonstrate the existing farm business is both established and active. The supplementary information includes a solicitor's letter confirming the farm holding was purchased in July 2012, as well as receipts for materials and works carried out on the lands dating back to July 2012.

Whilst visiting the site I observed the application lands and noted that they were in decent agricultural condition.

On this basis on that above I can conclude that whilst the farm business ID is not active 6 years the farm/field appears active the applicant has been established for a period of at least 6 years. With this in mind I am content that the agricultural holding is both active and established.

CTY 12 includes five further criteria (a-e):

a) The proposal would provide a farm building on this farm holding for existing livestock and this would help the applicant provide facilities for livestock over the winter months. It would also provide facilities for sick and/or injured livestock. I consider that the applicant has provided sufficient evidence to confirm that the proposed farm shed (and associated facilities) would be necessary for the efficient use of the agricultural holding.

b) The proposal presents an agricultural building which is not considered uncommon within the context of this rural landscape. The materials used are similar to other types of agricultural development within this area.

In addition, it is noted that the level of vegetation surrounding the site coupled with the existing building in the area restricts the level of impact associated with the proposal and on that basis, I consider that the proposal will not have a significant detrimental impact on the rural character of the area.

c) The proposed agricultural shed would benefit from the existence of natural vegetation and screening which are sited around the site area. As documented above, the location of other building to the east, help the proposal to integrate. The proposal would not present a prominent feature in the context of this rural landscape setting and I consider it to be successfully integrated. It must also be noted that there is a slight reduction in size to the previous proposal.

d) There are no sensitive natural heritage features of note within the site or the surrounding area. Department of Communities Historic Environment Division (HED) were consulted and have replied that the proposal is compliant with the policy objective contained within the SPSS and PPS 6.

I consider that the proposal will not have a negative impact on any natural/historic features or monuments.

e) It is noted that the proposal is sited approx. 65m away from the closest residential dwelling and approx. 15m from an approved site. An objection has been received from the resident at number 65 Derrygortreavy. Which is approx. 140 metres from the proposed shed. Environmental Health were consulted and responded, it should be possible to avoid adverse impact if planning permission was restricted to agricultural use only. It is my opinion that the proposal will not result in a detrimental impact on the amenity of residential dwellings outside of the holding.

CTY 12 – Additional Requirements

In addition to that above and in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

There is only a small group of sheds located to the North, which are in a poor state and are very small scale and therefore not suitable. The design is a traditional farm building and would be sympathetic to the locality and finally, the proposal due to its size and turning needs is approx. 75 metres to the south, however, there is the foundations for a farm dwelling situated in the area between.

#### CTY 13 & 14

An assessment of the proposed siting of the development along with its visual and physical impact has been documented within parts b and c, above. In terms of visual integration and impact on rural character members are advised that the proposal is deemed to satisfactorily integrate into the surrounding rural landscape setting. I consider the proposal to be compliant with the policy provision contained within Policies CTY 13 and 14 of PPS 21.

#### PPS 3

Department for Infrastructure Roads (DFI Roads) were consulted on this application and have returned comment highlighting that they are content with the proposed access to the site.

#### REPRESENTATION

Neighbouring properties were notified and press advertisement has been carried out in line with the Council's statutory duty. Two letter of representation was received from the occupier of 65 Derrygortreavy, Eglis. The issues raised by the objector on this application is summarised below:

- False case of need.
- Shed industrial in nature and size,
- Removal of vegetation for splays,
- Proximity to neighbouring dwelling raising odour and noise nuisance,
- Shed removed from an agricultural grouping.

#### Consideration.

The objectors raised concerns surrounding the proposed use of the proposal and a potential false case of need. The application relates to the use of the proposal for farming purposes and as such I have considered it on that basis and the proposed shed would in general be in keeping with other agricultural sheds within the vicinity.

As discussed above, the proposal is deemed to comply with the policy requirements of PPS 3 – Access, Movement and Parking, per DFI Roads comments. No concerns over access.

With regards to the proposal raising odour and noise concerns, Env health have been consulted and have responded with no objections subject to a use condition to agriculture only, I am content that the proposal is compliant with policy, please see detailed assessment above.

The objector also raised concerns that the shed was removed from the agricultural grouping. In my opinion the shed can be read with the existing grouping of buildings on the farm including the site under construction.

#### Conclusion

In terms of other key planning considerations, I am satisfied that the applicant has demonstrated through their farm business ID and supporting evidence that the farm business has been active and established for more than 6 years. In addition, the proposal complies with all the criteria included in CTY 12 and the site benefits from a satisfactory degree of enclosure and meets the integration tests of policy CTY 13. The form and appearance of the building is not dis-similar to other farm sheds within the vicinity in terms of its size, scale and siting, I do not have any concerns about the proposed development in terms of its integration or impact on the character of the rural area.

Recommendation Approval

**Neighbour Notification Checked**

**Yes**

### **Conditions**

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

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

2. Prior to commencement of the development hereby permitted, visibility splays of (2.4m \* 80.0m) and any forward sight distance shall be provided in accordance with Drawing No. 02 (Rev.B) bearing the date stamp 20/07/18, or as may otherwise be agreed in writing with the Council. The area within the visibility splays shall be cleared of all obstructions to a height of 250mm above the adjacent carriage and be permanently retained clear thereafter.

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

3. The building hereby permitted shall be limited to agricultural use ONLY.

Reason: The site is located in the rural area where it is the policy of the Council to restrict development and the planning permission hereby granted, is to support the operations needs of the active and established agricultural holding.

4. All hard and soft landscape works shall be carried out in accordance with the details as shown on drawing No 02 Rev B bearing the stamp dated 30 July 2018 and the appropriate British Standard or other recognised Codes of Practice. The landscaping shown around the new cattle houses shall be carried out prior to any of the cattle houses becoming operational and the landscaping around the new poultry houses shall be carried out prior to any of the poultry houses becoming operational. Any tree, shrub or other plant identified in the landscaping scheme dying with 5 years of planting shall be replaced in the same position with a plant of a similar size and species.

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

### **Informatives**

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

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

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

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

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

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

4. NIEA, as the statutory nature conservation body, advise that the applicant complies with the following recommendations;

The maximum number of sheep within the proposed facility shall not exceed 35 ewes.

The maximum number of cattle within the proposed facility shall not exceed 6 beef cattle (aged 1- 2 years old).

All contaminated run-off (from the facility and concrete) must be directed to an appropriate collection tank, with no overflow or outlet to any waterway or soakaway. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme.

Agricultural developments may result in the generation of slurry and dirty water. The applicant should also be reminded of their responsibilities under the Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations (SSAFO) (Northern Ireland) 2003 and The Nitrates Action Programme (NAP) Regulations (Northern Ireland) 2014 as detailed in the Standing Advice document for agricultural developments.

The applicant also should refer and adhere to the precepts contained in the following Standing Advice documents: Pollution Prevention Guidance, Sustainable Drainage Systems, Discharges to the Water Environment, Agricultural Developments and Livestock Installations and Ammonia.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	3rd November 2017
<b>Date First Advertised</b>	16th November 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) Joe Hughes 65 Killybracken Road, Dungannon, BT70 1NU Joe Hughes 65, Killybracken Road, Dungannon, Tyrone, Northern Ireland, BT70 1NU The Owner/Occupier, 73 Killyliss Road, Dungannon, Tyrone, BT70 1NX, The Owner/Occupier, 75 Killyliss Road, Dungannon, Tyrone, BT70 1NX, The Owner/Occupier, 75A Killyliss Road, Dungannon, Tyrone, BT70 The Owner/Occupier, 81 Killyliss Road Dungannon Tyrone Liam Cotter 81, Killyliss Road, Dungannon, Tyrone, Northern Ireland, BT70 1NX	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2016/1034/F Proposal: Change of house type from previously approved 2 Storey Dwelling and Storey and a Half Garage (Ref M/2014/0295/F) to 2 no Semi-Detached Units within same curtilage, footprint and same scale/massing (Retrospective Application) Address: 75 Killyliss Road, Dungannon, Decision: PR Decision Date: 12.06.2017  Ref ID: LA09/2017/1532/F Proposal: Proposed farm building Address: 40m N.W. of 81 Killyliss Road, Dungannon, Decision: Decision Date:	

Ref ID: M/2014/0295/F

Proposal: Construction of two 2 storey dwellings with detached garages and associated siteworks-change of previously approved house types

Address: 75 Killyliss Road, Dungannon,

Decision: PG

Decision Date: 29.07.2014

Ref ID: M/1993/0297

Proposal: New Access

Address: 81 KILLYLISS ROAD DERRYGORTREVEY DUNGANNON

Decision:

Decision Date:

Ref ID: M/1993/0079

Proposal: Extension to Dwelling

Address: 81 KILLYLISS ROAD DERRYGORTREVEY DUNGANNON

Decision:

Decision Date:

Ref ID: M/2007/0119/F

Proposal: Rear sittingroom, utility, bedroom and bathroom extension to dwelling

Address: 81 Killyliss Road, Dungannon, Co. Tyrone

Decision:

Decision Date: 04.04.2007

Ref ID: M/2009/0417/RM

Proposal: Proposed replacement dwelling and new access to the Killyliss Road, including domestic garage

Address: 75 Killyliss Road, Dungannon

Decision:

Decision Date: 16.09.2009

Ref ID: M/2006/2062/O

Proposal: Proposed replacement dwelling with new access to Killyliss Road

Address: 75 Killyliss Road, Dungannon

Decision:

Decision Date: 20.03.2007

Ref ID: M/1994/4030

Proposal: Repairs to dwelling

Address: 75 KILLYLISS ROAD DUNGANNON

Decision:

Decision Date:



Ref ID: M/1994/0416

Proposal: Alterations to dwelling

Address: 75 KILLYLISS ROAD DERRYGORTREVVY DUNGANNON

Decision:

Decision Date:

Ref ID: M/2006/0581/O

Proposal: Proposed site for new dwelling & garage

Address: Adjacent to 75 Killyliss Road, Derrygortrevy, Dungannon

Decision:

Decision Date: 27.09.2006

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02 rev B

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03 REV A

Type: Proposed Plans

Status: Submitted

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

Date of Notification to Department:


Response of Department:



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 5th February 2019	<b>Item Number:</b>
<b>Application ID:</b> LA09/2017/1776/O	
<b>Proposal:</b> Dwelling and garage	<b>Location:</b> 25m West of The Manor House Corchoney Lane Cookstown
<b>Referral Route:</b>  Approval, exception from policy CTY10.	
<b>Recommendation: Approval</b>	
<b>Applicant Name and Address:</b> Mr Noel Corey Manor House Corchoney Lane Cookstown	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
<b>Signature(s):</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Omagh	Substantive Response Received
Non Statutory	NIEA	Consulted in Error
Statutory	Historic Environment Division (HED)	Content
Statutory	DAERA - Forestry 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 site is located is situated in open countryside approximately 25m West of The Manor House, Corchoney Lane, Cookstown and is approximately 6.8km west of Cookstown</p>		

town centre and is outside any designated settlement limits of Cookstown as defined in the Cookstown Area Plan 2010,

The application is for an outline application for a dwelling and garage adjacent to a 2 storey dwelling where shared access is proposed cutting across the front of the garden to the site located west of the main dwelling house. The site incorporates a field, which is rectangular in shape and a plot size of 0.3 of hectare. The site's topography is relatively flat consisting of thick vegetation and mature trees. The immediate location is predominately agricultural with the wider setting being defined by a mix of residential dwellings and agricultural land uses.

### Description of Proposal

The applicant is seeking Outline planning consent for a Dwelling and garage on a farm 25m West of The Manor House, Corchoney Lane - Cookstown – County Tyrone.

### Planning Assessment of Policy and Other Material Considerations

#### Representations

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

#### Planning History

Planning Ref:	Site Address	Proposal
	Decision	Decision Date
I/1979/0341	Corchoney, Cookstown	11kv o/h line, mv o/h line and mv
u/g services	Permission Granted	
I/1998/0408	100m west of 4 Corchoney lane Cookstown	Site for Dwelling and
Garage	Permission Granted	
I/1999/0518/F	100m west of 4 Corchoney lane Cookstown	Proposed dwelling &
garage	Permission Granted	05.01.2000
I/1974/0149	Knockaleery and Corchoney, Cookstown	11 kv overhead line
	Permission Granted	

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations. The application property is located outside the settlement Development Limits of Cookstown Area Plan 2010.

There are no other potential development constraints. The proposal raises no concerns in terms of flood risk, impact on listed built heritage or protected trees or vegetation (TPO) nor does it fall within Conservation, Townscape Designation. The proposal is

under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office -Radar. The key policy tests and relevant supplementary guidance are listed below.

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 retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Cookstown Area Plan 2010 (CAP) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

Policy References:

Regional Development Strategy 2035

Cookstown Area Plan 2010

Strategic Planning Policy Statement (SPPS)

PPS 21: Sustainable Development in the Countryside

CTY 1- Development in the Countryside

CTY 10 – Dwellings on Farms

CTY 13 – Integration and Design of Buildings in the Countryside; and

CTY14 – Rural Character

PPS 3 - Access, Movement and Parking;

Supplementary Planning Guidance

"Building on Tradition" A Rural Design Guide for Northern Ireland

The application is for a farm dwelling and garage. The site is located in the open countryside as defined by the Cookstown Area Plan 2010. Development is controlled under the provisions of the SPPS and PPS 21 – Sustainable Development in the countryside.

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) DAERA were consulted and responded by email from Keith Johnson 14/06/2018 that both names mentioned on P1C, Michael Corey (Father) 178026 & his Noel Corey (Son) have App Ref Numbers, but both have never had a Business Number.

No Payments for Forestry Grants have been made under the App Ref Numbers for either Father or Son. Forestry Division were also consulted along with the submitted invoices, and have confirmed the woodland area does not receive Forest Grants/subsidies.

The agent was given the opportunity to respond to the above and responded in a letter stamp date 11.06.2018 to DAERA' email (14.06.2018) stating the both the father and son are both registered with DARD since 1996. The agent's letter confirms DAERA's statement that the applicant does not have a business ID "as this is only required for the payment of grants and subsidies and to be registered as a farmer does not require a business ID number".

Policy CTY 10 states that planning permission will be granted for a dwelling house on a farm where a number of criteria are met. Paragraph 5.38 of the justification and amplification text of Policy CTY 10 states that new houses on farms will not be acceptable unless the existing farming business is both established and active. The applicant is required to provide the farm's DARD business ID number along with other evidence to prove active farming over the required period. Paragraph 5.39 goes on to state that for the purposes of this policy 'agricultural activity' refers to the production, rearing or growing of agricultural products including harvesting, milking, breeding animals and keeping animals for farming purposes, or maintaining the land in good agricultural and environmental condition.

According to the farm map submitted along with the application shows the applicant has a 4.69ha farm holding which is planted out in trees and is located separate from his residential property at The Manor House, Corchoney Lane,. The appellant has stated he does not have no farm business and this has been confirmed by DAERA's email dated 14.06.2018.

The agent's documentation states the applicant has 4.68ha of farm land planted in trees. The trees were planted 2m by 2m apart to give a stocking of 2,500 trees per hectare. Each year some trees are removed known as thinning this practice allows more growing space, reduces competition and reduce the risk of disease, pests and ensures a reasonably equal distribution of final crop of trees and enhances the applicant's fanatical return.

In terms of the applicant having an active and established forestry business, the agent has mentioned that Forestry, like farming, involves growing a crop, which allows the farmer to avail of a return for the crop. He states the management of these trees and the monies generated each year is in line with what the policy under Para 5.39 of CTY10 means, in that firstly the land has to be maintained in good environmental condition and secondly it is growing of agricultural products. Also he argues the receipts submitted outline the work carried out on the land, confirming he is an active farmer (this includes a bundle of invoices for various items including post and wire fencing; steeples, drainage pipes; hire of machinery – these cover a period from 2002, 2007, 2009, 2014, 2016). In addition to the above are screen shot relating to DAERA Grants and Subsidies LIVE dated 21/06/2018 that shoes the name of the applicant, Grid reference and application reference 199780 created 23/11/1999.

I have no issues that the applicant has kept the land it in good agricultural and environmental condition this is evidenced by numerous invoices submitted in support of this application.

Part (b) of the policy has also been met. Following a history check no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding.

Criterion (c) of Policy CTY 10 states that the new building should be visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. The proposal would be accessed via an existing access. It would be located adjacent and to the east of the applicant's residential property at The Manor House, Corchoney Lane.

When viewed from the critical viewpoints identified on the Corchoney Lane and Drum Road the proposal would be visually linked with the main residential property. The proposal therefore complies with criterion (c) of Policy CTY 10.

I am content that Policy CTY 12 – Agricultural and Forestry Development clearly set outs that if a proposal complies with Policy CTY 10 of PPS 21, it is one of the specified types of development considered to be acceptable in the countryside under Policy CTY 1.

Accordingly, I recommend approval on the basis the proposal is within the spirit of CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and can be considered as a valid forestry case, and it has been demonstrated that the forestry business is currently active and has been established for at least six years. Therefore a dwelling can be approved in associated with the forestry business as outlined above.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Approval with conditions

## Conditions

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

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

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

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

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

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

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

4. The existing natural screenings of this site shall be retained unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to their removal. A detailed planting scheme of proposed planting of undefined boundaries should be submitted at reserved matters stage for consideration by the Council.

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

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

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

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



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

**Signature(s)**

**Date:**

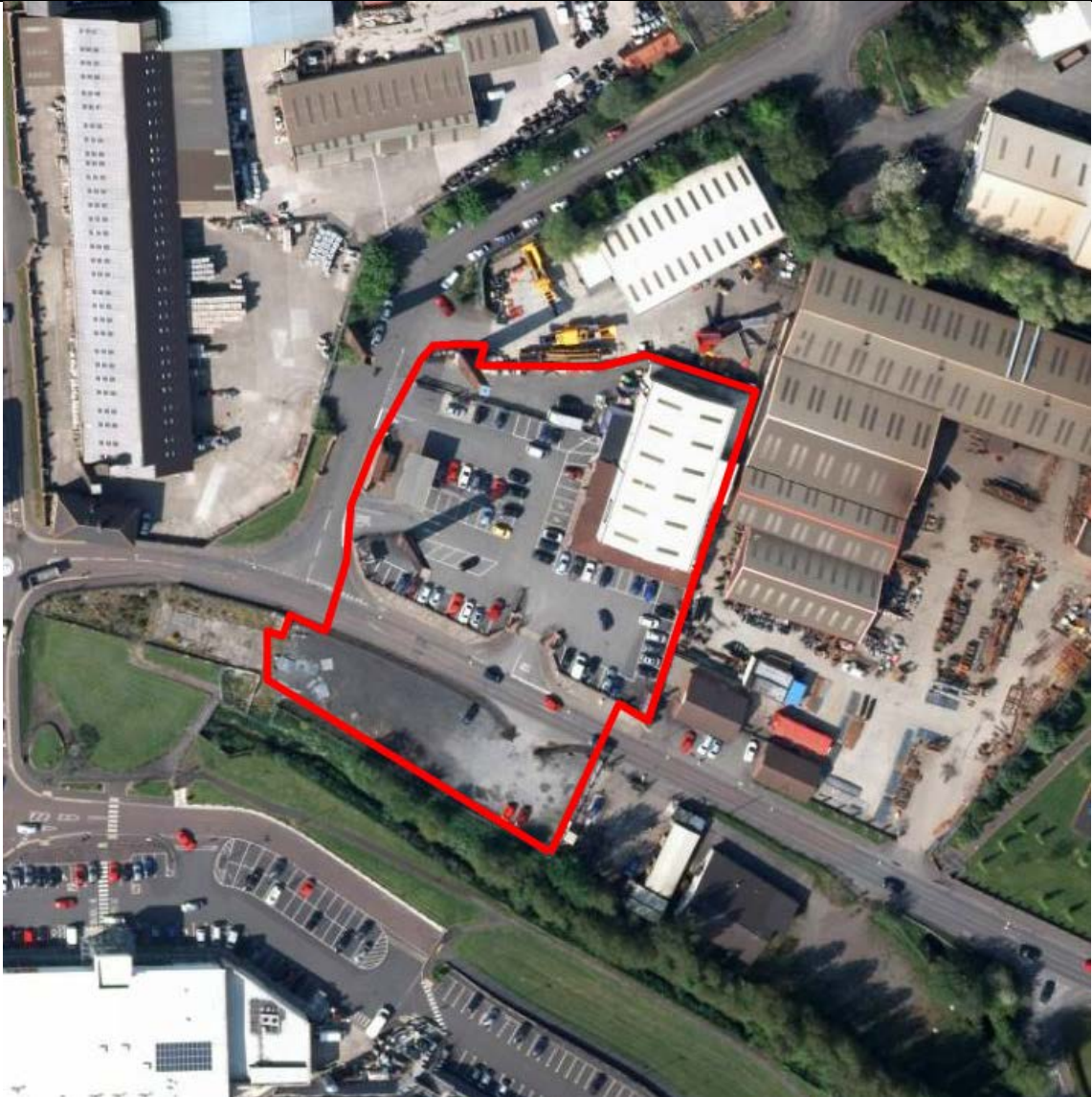
ANNEX	
<b>Date Valid</b>	18th December 2017
<b>Date First Advertised</b>	11th January 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 2 Corchoney Lane Cookstown Tyrone The Owner/Occupier, 4 Corchoney Lane Cookstown Tyrone	
<b>Date of Last Neighbour Notification</b>	25th January 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
Ref ID: LA09/2017/1776/O Proposal: Dwelling and garage Address: 25m West of The Manor House, Corchoney Lane, Cookstown, Decision: RL Decision Date:	

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0123/F	<b>Target Date:</b> 15/05/2018
<b>Proposal:</b> Proposed extension to existing Supermarket including relocation of approved off sales	<b>Location:</b> Springisland Supermarket 2 Washingbay Road Coalisland
<b>Referral Route: Objections</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Mr Peter Rice Springisland Supermarket 2 Washingbay Road Coalisland	<b>Agent Name and Address:</b> McKeown and Shields 1 Annagher Road Coalisland BT71 4NE
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Representations:

Letters of Support	None Received
Letters of Objection	4
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

**Summary of Issues**

- Parking provision
- Critique of Retail Impact provided by applicant/agent(covered in more detail later)
- Impact of the proposal on Historic Environment namely the industrial chimney historic monument (TYR 047:500)
- Details on the nature of cooking, potential odour and means of extraction from the proposed kitchen.

These issues will be addressed in more detail throughout my report.

**Description of proposal**

This is a full planning application for an extension to existing Supermarket including relocation of approved off sales. The proposed extension is two storey with the sales located on the ground (plus kitchen and entrance porch) and storage at first floor level. Additional on-site parking is also proposed.

**Characteristics of Site and Area**

Springisland Supermarket is located just to the east of the town centre of Coalisland and is accessed directly off the Washingbay Road. The existing supermarket is 2 storey with the sales located on the ground floor and warehouse/storage/ancillary office/staff facilities on the first floor. The supermarket provides on-site car parking and a fuel sales area.

This area is strongly commercial in character, with a mix of retail, services, offices and industrial use in the area along with some residential development. Newell Stores, a competing supermarket, is visible to the south.

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

Dungannon and South Tyrone Area Plan (DSTAP) 2010- Land is zoned as existing industry/business and falls just outside the Town Centre limits of Coalisland.

**Planning History**

M/2012/0055/F-Proposed part change of use from existing grocery supermarket to off-licence within existing shop, granted 26.03.2012

M/1999/0078- Petrol Filling Station comprising Kiosk and pump facilities, granted 15.02.2001

M/1996/0723- Change of use of a factory building to a retail shop outlet, permission granted 11.02.1997

No retail floor space restrictions were placed on any of these permissions.

**3rd party objections**

Newell Stores have employed a planning consultant, Inaltus Limited, to object on their behalf. The following issues have been raised by the objector;

- Parking provision
- Critique of Retail Impact (covered in more detail later)

- Impact of the proposal on Historic Environment namely the industrial chimney historic monument (TYR 047:500)

- Details on the nature of cooking, potential odour and means of extraction from the proposed kitchen.

Throughout the processing of this application the objector was re-consulted on amended plans and various reports which deal with parking and retail impact. Appropriate consultees were also consulted on this information. Points of objection will be addressed in the main body of my report.

### **Retail Impact**

This proposal is for an extension to Spring Island supermarket which is located outside the Town Centre (TC) boundary of Coalisland, with the site abutting the TC. The Strategic Planning Policy Statement (SPPS) states that all applications for retail or town centre type developments above a threshold of 1000 square metres gross external area which are not proposed in a town centre location and are not in accordance with the Local Development Plan (LDP) should be required to undertake a full assessment of retail impact as well as need. This includes applications for an extension/s which would result in the overall development exceeding 1000 square metres gross external area.

The proposed extension measures 600m<sup>2</sup> gross external floor space and when added to the existing gross floor space of the existing store (which measures 1,673m<sup>2</sup> gross floor space over 2 floors) results in the overall development exceeding 1000 square metres. The Dungannon and South Tyrone Area Plan 2010 does not stipulate any thresholds where proposals should be accompanied by an assessment of retail impact and need, this will be considered while creating a new Local Development Plan (LDP) for Mid Ulster. In my view, and in line with the requirements of SPPS, this proposal requires a statement of Retail impact and Need. Newell Stores, a competing supermarket located approx.. 100m south of Springisland, have employed a Planning Consultant with retail expertise to provide objections to this proposal on their behalf, Inaltus Limited. Inaltus also highlight the need for this proposal to be accompanied by a Retail Impact Assessment.

On 5th October 2018 I received an Assessment of Retail Impact and Need (RIA) from the applicant/agent which was prepared by Gravis Planning. This report considers;

- Sequential Test
- Assessment of Need
- Assessment of Retail Impact
- Qualitative Assessment including the catchment area and existing retail provision
- Quantitative Assessment including catchment population, available expenditure, turnover of proposal and market share, catchment retail floor space and turnover, and, assessment of retail impact.

It is important to note that Mid Ulster Council at this stage of LDP preparation has not carried out any assessment on the health of Coalisland Town Centre and retail provision allocation, but that this work will soon be underway to inform Retail and Town Centre Policies within the new plan. Contained within the Preferred Options Paper it states that the vacancy rates for Coalisland (figures taken from Springboard 2015) is 13.71% with the NI average being 17.3%. Coalisland TC provides a convenient and compact centre with a range of local retail outlets complimented by restaurants, cafes, bars and services.

It is important to note that the RIA process is not an exact science and that some caution must be exercised when making decisions based on RIAs. I also have limited counter figures at my disposal as there have been no RIAs carried out for similar development proposals within Coalisland and Mid Ulster has not carried out any studies in terms of retail provision and allocation for the LDP. I will consider the proposal on the basis of the information provided while exercising some caution and professional judgement.

### **Sequential Test**

The SPPS states that retailing will be directed to town centres, and all proposals must ensure there will be no unacceptable adverse impact on the vitality and viability of an existing centre within the catchment, and meet the requirements of policy elsewhere in the SPPS. 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. Where it is established that an alternative sequentially preferable site or sites exist within a proposal whole catchment, an application which proposes development on a less sequentially preferred site should be refused.

In terms of need Gravis consider it illogical to consider alternative sequentially preferable sites based on just the proposed extension, that alternative site selection has to be based on the supermarket site as a whole. This approach appears to be supported by a judicial review *Tesco v Dundee City Council* 2012, UKSC 13. The key requirements of the development considered by the applicant are as follows;

- Town centre location;
- Site area of 1.6 acres (0.665 ha) to accommodate the extended supermarket plus extension;
- Prominent location with good footfall;
- Easily accessible.

Gravis consider 2 alternative sites within Coalisland Town Centre, these are identified as development opportunity sites within the DSTAP 2010 as COS1 and COS2.

CSO1 measures 0.4ha is part hardstand part covered in dense vegetation. This site is ruled out due to size restrictions and poor accessibility within a largely residential environment. This site is not up for sale.

CSO2 is located on the western portion of Coalisland TC. Again this site area is too small to site such a supermarket, measuring only 0.1ha. The plan states that high density residential would be acceptable for this site.

Gravis state that there are no other suitable sites within the TC and therefore the next sequentially preferable site is edge of centre, which the Springisland site is, and is therefore the next sequentially preferable site. The planning authority is of the view that there are no other acceptable sites located within the TC of Coalisland to cater for a supermarket of this size and scale.

### **Assessment of Need and Retail Impact**

This report takes a comprehensive look at existing retail provision within Coalisland town centre and its catchment, and also looks at potential retail spend within the same area. The conclusions of the report show that there is a retail provision deficit for existing potential spend.

Determining catchment area for retail spend can be difficult and is not an exact science. For a store of this size, a 5 or 10min drive catchment is usually considered appropriate.

Appendix 1 shows a map of the retail catchment arrived at by Gravis. The rings of the catchment area are not concentric, as Gravis has assumed that Dungannon which lies to the SW of Coalisland is likely to have a bigger draw for shoppers due to its more attractive retail offer and the fact that it is closer. While this assumption is likely to be true, this will not always be the case and there is no evidence to back up this fact, therefore caution has to be applied when looking at the overall catchment figures. Gravis state that the total population in their calculated catchment area for 2011 is estimated at 18,737 (NI Census 2011). Based on growth rate of 0.6% per annum (NISRA) the current population within the catchment is estimated to be 19,538 and rising by an estimated 354 persons by the design year.

The estimated spend per head on convenience goods is currently £2,161 which is estimated to rise by 0.4% by the design year (2021).

From these figures Gravis estimate the current available retail expenditure to be £39million for the catchment area, to rise by £2.7million by design year.

The two largest retail offers of convenience goods within Coalisland TC are Newell Stores and Supervalu. Gravis state that Newell is estimated to have 34% share of the total convenience turnover in the catchment area. For robustness they estimate that the proposal will divert around 65% or £0.7m of its turnover from Newell with an impact of around 8%. It is estimated that the proposal will divert around 15% (£0.1m) from Supervalu with an estimated impact of 5%.

It is not considered that the proposal will divert significant levels of turnover from the remaining convenience retailers within the town centre, given their niche products or convenience passing trade.

Outside the town centre there are a number of convenience retailers, the Spar to the south-west and Annagher Supermarket to the north-west. It is estimated that the proposal will divert around 10% from the Spar (£0.1m) with an impact of around 9% and around 3% (£0.3m) from Annagher Supermarket with an impact of 8%.

The remainder of the catchment consists of villages with small village shops that will retain their day-to-day service and it is expected these will not be impacted negatively by this proposal.

Gravis concludes that;

- the impacts on convenience traders within Coalisland town centre is well within acceptable limits;
- Springisland compliments Coalisland TC even though it is located at an edge of centre location;
- there will be no detrimental impacts on the vitality and viability of Coalisland TC given the proximity of the town to the TC;
- cumulatively there is no committed retail proposals within the catchment;
- the proposal will not have a negative impact on the local economy or the existing convenience retail sector.

The objector provided comment on the Retail Impact Assessment and highlighted parts of the assessment that, in their view, are incorrect or require further clarification. Some of the issues raised by Inaltus are as follows;

- Inaltus query the need for the proposal;
- As the RIA suggests that Coalisland is underprovided for in terms of supermarket provision (which they would dispute), this proposal does not meet that need;
- The objector points out inconsistencies in terms of available spend within the catchment, and claims that the 5 minute catchment has a turnover of over £20 million with an estimated spend of £28m in 2018. That implies that there is limited outflow from



the core catchment. Reliance on 5-10 minute catchment is questionable given the strong pull attraction from both Dungannon and Cookstown;

- Insufficient information within the RIA including vacancy rates, level of investment, diversity in land uses in the TC. No indication as to the health of Coalisland TC.

- Their client (Newell Stores) are concerned that allowing this application will create a significantly larger Springisland Supermarket, disproportionate with the demands of Coalisland and will deter their client from making further investment in the town centre, and potentially undermine the current investment that has been made.

- concern is raised that the first floor of the current supermarket could be used as sales floor space, as well as the 600 square metres proposed, resulting in 2273 square metres of sales area. Inaltus suggest that total net retail floor space be limited to 953 square metres.

While RIA process is not an exact science, the facts of the case are;

- there is no control over the net retail floor sales area of the current Springisland Supermarket;

- current retail floor space of Springisland is 750 square metres;

- proposed net retail floor space of the proposed extension is 206 square metres, as confirmed by the applicant/agent.

The combined net retail floor space is calculated at 956 square metres. Left unchecked there is nothing preventing the owner from converting the 1st floor into retail sales, and Council have no control to prevent this from happening. Should the current situation prevail Springisland can use the entire building for retail sales, a total of 1673 square metres, which may result in detrimental impacts to the Town Centre and associated convenience retailers. By limiting the proposed retail floor space of the entire supermarket to 956 square metres a level of protection can be provided to the TC, which currently does not exist, and future plans to expand the out of town centre supermarket can be controlled. In my view, an expansion of 206 square meters of net retail floor space will have some impacts on the larger convenience retailers within the TC such as Newell and Supervalu, and to a lesser extent smaller retailer, as demonstrated by Gravis. It is more likely that stores offering a similar retail provision in terms of floor space and products will attract the same type of shopper therefore are likely to experience greater impacts.

As highlighted earlier, Coalisland Town Centre (as of 2015) has a vacancy rate of approx. 4% less than the Northern Ireland average, suggesting a healthier than average town centre in terms of investment and footfall. In my view, the retail diversion created by this extension will have greatest impact on Newell and Supervalu, with a lesser impact on small retailers. Coalisland is a small town centre and whilst it would not score well against much larger town centres in relation to retail offer, it has improved over the last 20 years in relation to goods, services, environmental quality and amenity.

In my view, when all considered, it is likely Coalisland town centre can sustain this impact and existing vitality and viability can be protected. This proposal, if complete, is unlikely to deter existing retailers within the town centre from further investment, nor will it deter potential investment.

Gravis predict that the overall impact on Coalisland town centre will be around 7%. Given the subjective nature of RIA's, even if this impact is increased by 50%, which is

unlikely given the size and scale of the proposal, this will bring the impact to 10%. This remains a fairly low impact level and would be acceptable.

### **Parking**

The applicant/agent has indicated that 35 parking spaces can be provided. In their response dated 15/08/2018 DfI Roads state;

The 35 number of car parking spaces required as stated in the submitted letter date stamped 22 May 2018 would appear reasonable for the extension alone when assessed in accordance with Car parking guidelines.

DfI Roads then go on to say that the overall parking provision for the existing store is insufficient. Under the confines of this application I would advise that little weight can be added to this parking shortfall provision and I would advise that parking provision for the new extension has been met. PPS3 Access, movement and parking is met, as is parking standards provided for in Parking Standards booklet. Concerns raised by the objector on parking shortfall has not been supported by any evidence of a parking problem in Coalisland and none has been raised by DfI. Furthermore the site is not an unreasonable walking distance from existing public parking provision.

### **Historic Environment**

I consulted Historic Environment Division (HED) as the proposal is close to Industrial Heritage TYR 047/500. HED provided comment and raise no concern about impact on the historic monument from the proposed development. Concerns raised by the objector in relation to impacts on this monument are not determining in this instance.

### **Environmental Impact**

This site is existing hardstand tarmacadam. The proposal does not require a Drainage Assessment as the area of hardstand will not increase by over 1000 square metres. There site is not adjacent or located within a protected habitat or landscape nor is there any hydrological link to same.

NIW advise that there is sufficient sewage capacity within Coalisland to accommodate this development.

### **Amenity Impact**

The proposal is proposed to be attached to the side of an existing Supermarket. No residential properties will be impacted in terms of overlooking or overshadowing. This proposal will not have a negative impact on any adjacent land uses in terms of overlooking, overshadowing or overlooking.

Environmental Health were consulted on this proposal and they have no objections in principle to the proposed. Two conditions are suggested;

- The outlet from any extract ventilation ducting shall terminate at a height not less than 1 metre above the ridge eaves height of the main building and it should be directed away from nearby dwellings or offices.
- The extraction ventilation system shall be suitably sound attenuated to avoid adverse noise impact on neighbouring residences.

The first condition meets the test of a planning condition and can be added to any permission. The second condition does not meet the tests of a condition in that it is not precise or enforceable, therefore I suggest that it is added as a planning informative to any decision, along with the other suggested informative, subject to agreement from the

Planning Committee. No residential development abuts the site, with mostly office and/or industrial development surrounding the development.

### **Design**

The scale, mass and design is similar to the existing building and is in keeping with the surrounding area. Roof and side panels to upper half of building are Kingspan insulated silver, aluminium windows, toughened glass canopy over entrance doors, bricks on lower half of building to match existing.

### **Other considerations**

This site is not located within a flood plain.

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

### **Summary of Recommendation:**

That planning permission is granted subject to the following conditions.

### **Conditions**

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

Reason: Time Limit.

2.                                The use hereby permitted shall be restricted to Class A1 Shops only of the Schedule to the Planning (Use Classes) Order (NI) 2015 (as amended), unless otherwise agreed in writing by Mid Ulster Council.

Reason: To prohibit a change to an unacceptable use within this Use Class.

3.                                The retail offer of Springisland Supermarket shall not exceed 956 square metres of net retail floor space and no mezzanine floors shall be introduced to any of the development hereby permitted without prior written consent from Mid Ulster Council.

Reason: To control the size, scale and nature of the development hereby permitted and to protect Coalisland town centre.

4.                                The outlet from any extract ventilation ducting shall terminate at a height not less than 1 metre above the ridge eaves height of the main building and it should be directed away from nearby dwellings or offices.

Reason: To safeguard amenity.

5.                                No retailing or other operation in or from any building hereby permitted shall commence until hard surfaced areas have been constructed within the site and permanently marked to provide public car parking spaces in accordance with Drawing No. 01 rev2 bearing the date stamp 22<sup>nd</sup> May 2018.

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

**Signature(s)**

**Date:**

## ANNEX

<b>Date Valid</b>	30th January 2018
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<b>Date First Advertised</b>	15th February 2018
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<b>Date Last Advertised</b>	
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### **Details of Neighbour Notification** (all addresses)

The Owner/Occupier,  
2a Washingbay Road, Coalisland, Tyrone, BT71 4ND,  
The Owner/Occupier,  
4 Washingbay Road Coalisland Tyrone  
The Owner/Occupier,  
7 Washingbay Road Coalisland Tyrone  
The Owner/Occupier,  
Filling Station Springisland Supermarket 2 Washingbay Road  
Eamonn Loughrey  
INALTUS, 15 Cleaver Park, Belfast, Antrim, Northern Ireland, BT9 5HX  
Eamonn Loughrey  
Inaltus Ltd, 5 Cleaver Park, Belfast, Antrim, Northern Ireland, BT9 5HX  
Eamonn Loughrey  
Inaltus Ltd, 15 Cleaver Park, Malone Road, Belfast, BT9 5HX  
Eamonn Loughrey  
Inaltus Ltd, 15 Cleaver Park, Malone Road, Belfast, BT9 5HX  
The Owner/Occupier,  
Jmc Tyre Centre 5 Washingbay Road Coalisland  
The Owner/Occupier,  
Schiedel Chimney Systems Ltd 1 Washingbay Road Coalisland  
The Owner/Occupier,  
Springisland Supermarket 2 Washingbay Road Coalisland  
The Owner/Occupier,  
Unit 1, 1a, Washingbay Road Industrial Estate, Coalisland, Tyrone, BT71 4ND,  
The Owner/Occupier,  
Unit 2, 1a, Washingbay Road Industrial Estate, Coalisland, Tyrone, BT71 4ND,  
The Owner/Occupier,  
Unit 3, 1a, Washingbay Road Industrial Estate, Coalisland, Tyrone, BT71 4ND,  
The Owner/Occupier,  
Unit 4, 1a, Washingbay Road Industrial Estate, Coalisland, Tyrone, BT71 4ND,

<b>Date of Last Neighbour Notification</b>	13th November 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No



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> LA09/2018/0666/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement of existing Mobile Home with new farm dwelling and garage	<b>Location:</b> Approx 40m South East of 32A Mayogall Road Gulladuff
<b>Referral Route:</b> The proposal is contrary to the policy requirements of PPS 21 Sustainable Development in the countryside	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Damon Brown 32A Mayogall Road Gulladuff Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SQ
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

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

There have been no third party objections to this application. Transport NI and Water NI were consulted on the application. DAERA were also consulted.

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

The application site is plot of land located approx. 40m South East of 32A Mayogall Road, Gulladuff and is located just outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is triangular in shape and there is an existing static caravan/mobile home located on the site towards the northern corner. There are no other buildings within the red line of the site. The boundary of the site is comprised of a mixture of mature hedgerows and trees.

There is one third party dwelling located to the North West of the site. To the South East there is a ribbon of detached dwellings fronting onto the existing lane.

### **Description of Proposal**

The applicant initially sought permission to replace the existing mobile home with a new farm dwelling. This was not possible under the current replacement policy (CTY 3) and was then assessed under CTY 10, dwellings on farm.

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

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

1. Strategic Planning Policy Statement (SPPS)
2. Magherafelt Area Plan 2015
3. Planning Policy Statement (PPS) 21 – Sustainable Development in the countryside
4. Planning Policy Statement 3 – Access, Movement and Parking

#### **Planning History**

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

#### **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.

#### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) 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 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. The SPPS retains PPS21: Sustainable Development in the Countryside and PPS 3: Access, Movement and Parking which are relevant policies under which the proposal should be considered.

The proposal is for a new dwelling and garage on a farm. Initially the application came in as a replacement of existing mobile home with new farm dwelling. However, there is no provision to replace a static mobile home/caravan under the CTY3 Policy for replacement dwellings. I contact the agent to ask if they wanted the application assessed under any other policy and they requested that it was then assessed under Policy CTY 10 as a new



dwelling on a farm, this had been mentioned in the original proposal description. I then requested farm maps from the agent and consulted DEARA on the scheme. I also note that the mobile did not have planning permission, however as it appears to have been on the site for more than 5 years it is now immune from enforcement action, therefore the land can continue to be used for storage of a mobile.

PPS 21, Policy CTY 1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY10. This establishes the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years,
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:
  - Demonstrable health and safety reasons; or
  - Verifiable plans to expand the farm business at the existing building group(s)

With respect to (a) the applicant provided a P1C form and I had to request farm maps from the agent/applicant and received a spatial NI map with the relevant fields identified. DAERA were consulted and responded to state that the Business ID identified on the P1C was not active or established. The business id was only issued on 27 January 2017 and no claims for BPS have been submitted. I enquired further information from the applicant/agent, they said they had acquired the farm from relations. I went back to DAERA and asked them to check if there was any continuation of farm numbers or any claims had been made. DAERA responded to say that the Business id was issued to Mr Daman Brown on 27 January 2017. The business was awarded following the submission of a 5 year lease for the two fields and no farm payments have been claimed over the past 6 years for any of the fields identified. Therefore this proposal fails to meet this test.

With regard to (b) there are no records indicating that any dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.

With respect to (c), there are no buildings within the red line of the site for a new dwelling to visually link or cluster with. There is one dwelling house within the blue land indicated on the location map drawing No 01, date stamped 15.05.2018, however a new one on the site and would not sufficiently link or cluster with the dwelling. The portion of the site where the mobile is located, narrows significantly and would may not be suitable to accommodate a modest sized dwelling. Also, as the proposed site is on the boundary of the settlement limits of Gulladuff the development would if permitted mar the distinction between the defined settlement limit of Gulladuff and the surrounding countryside and is therefore contrary to policy CTY 15, the setting of settlements of PPS 21.

**Access**

Transport NI were consulted on this application and responded stating they had no objections to the proposal, subject to condition.

**Conclusion**

In conclusion, the proposal fails to meet the policy requirements of the SPPS, PPS 21 (Policy CTY 1,10 & 15) and therefore it is recommended that permission is refused.

**Neighbour Notification Checked**

Yes

**Summary of Recommendation:**

Refuse

**Conditions/Reasons for Refusal:**

- 1) The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that:
  - the farm business is not active and established for at least six years;
  - the proposed new building is not visually linked or sited to cluster with an established group of buildings on the farm
- 2) The proposal is contrary to Policy CTY15 of Planning Policy Statement 21, Sustainable Development in the Countryside in that, the development would if permitted mar the distinction between the defined settlement limit of Gulladuff and the surrounding countryside

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	15th May 2018
<b>Date First Advertised</b>	31st May 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 22 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 24 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 26 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 28 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 30 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 32 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 32a Mayogall Road Gulladuff The Owner/Occupier, 34 Mayogall Road Gulladuff Londonderry The Owner/Occupier, 36 Mayogall Road Gulladuff Londonderry	
<b>Date of Last Neighbour Notification</b>	29th May 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/0666/O Proposal: Proposed replacement of existing Mobile Home with new farm dwelling and garage Address: Approx 40m South East of 32A Mayogall Road, Gulladuff, Decision: Decision Date:   Ref ID: H/1997/0026 Proposal: DWELLING AND GARAGE Address: ADJ TO 32 MAYOGALL ROAD GULLADUFF MAGHERAFELT Decision:	

Decision Date:

Ref ID: H/2002/0280/A41

Proposal: Disabled Improvements to Dwelling

Address: 30 Mayogall Road, Magherafelt

Decision:

Decision Date:

Ref ID: H/2005/1025/F

Proposal: Two Storey Dwelling and Garage

Address: 700m NW of 32 Mayogall Road, Priest Town Lane, Gulladuff

Decision:

Decision Date: 21.12.2005

Ref ID: LA09/2015/1275/O

Proposal: Infill dwelling and garage between 32 and 32a Mayogall Road, Gulladuff

Address: Lands Between 32 and 32a Mayogall Road, Gulladuff,

Decision: PG

Decision Date: 15.06.2016

Ref ID: H/1996/0430

Proposal: SITE OF DWELLING

Address: ADJACENT TO 32 MAYOGALL ROAD KNOCKLOUGHRIM MAGHERAFELT

Decision:

Decision Date:

### Summary of Consultee Responses

### Drawing Numbers and Title

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

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


**Notification to Department (if relevant)**

Date of Notification to Department:  
Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/0800/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage.	<b>Location:</b> Land between 20 & 26 Garrison Toberhead Knockloughrim Bt45 8RD.
<b>Referral Route:</b> Refusal Contrary to PPS 21: Sustainable Development in the Countryside	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Donna OKane 12 Cooles Road Castledawson Magherafelt BT45 8DJ	<b>Agent Name and Address:</b> OJQ Architecture 87 Main Street Garvagh BT52 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Content
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
<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>		
<p>No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located between 20 and 26 Garrison, Toberhead, Knockloughrim and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The site is located on the edge of a small group of dwellings and is accessed via an agricultural type lane way, leading off the Garrison Road. This lane also appears to serve the dwelling at No 26. The site is a section of a larger agricultural field, the boundary to the east is comprised of mature vegetation and trees and the boundary to the south west is comprised of mature hedgerow and scattered trees. The boundary to the west is undefined and to the south east is made up of an agricultural farm gate and vegetation.</p>		

The site is on the edge of a small group of dwellings in a rural area and is flanked by agricultural fields on the other side.

### **Description of Proposal**

This application seeks outline planning permission for an infill site for one dwelling

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

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

- Strategic Planning Policy Statement (SPPS)
- Magherafelt Area Plan, 2015
- PPS21 -Sustainable Development in the Countryside

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

#### **Planning History**

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

#### **Representations**

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

#### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states that a transitional period will operate until such times as a Plan Strategy for the whole of the Council area has been adopted. During the transitional period planning authorities will apply existing policy contained within identified policy documents, together with the SPPS. One retained policy document is Planning Policy Statement 21: Sustainable Development in the Countryside (PPS 21).

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

The Policy further stipulates in paragraph 5.33 that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked.

This application site is considered against the existing pattern of development to determine if it complies with this policy. However, there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and therefore this site is not believed to be suitable as an infill/gap site. The other dwellings in the area



have various frontages not in line with the requirements of Policy CTY 1 & CTY 8. There is no substantial or built up frontage or line of three or more buildings along a road frontage in this case. Also, it would add to ribbon development in the area.

In assessing this application, I also considered policy CTY2a of PS 21, New dwellings in existing clusters. However, this group of dwellings is not associated with a focal point such as a social/community building/facility, nor is located at a cross roads, it is not bounded at least on two sides with other development in the cluster, therefore it does not meet with the policy criteria set out in CTY 2a.

The proposal is also contrary to Policy CTY 14, Rural Character of PPS 21. Permission for a building on this site would cause a detrimental change to or further erode the rural character of the area as it would cause an urban type sprawl of development. It would result in a suburban style build up of development when viewed with the existing buildings and as previously mentioned it would add to a ribbon of development.

I also enquired if there was a farm case for the applicant however this was not feasible as the applicant's brother was applying for a dwelling on a farm.

#### Conclusion

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

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal

#### Conditions/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.
- 2) The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there is no substantial or built up frontage or line of three or more buildings along a road frontage in this case and if permitted, result in the addition of ribbon development along Garrison Road.
- 3) The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that:
  - the cluster is not associated with a focal point) and / or (is not located at a cross-roads;
  - the proposed site is not bounded on at least two sides with other development in the cluster and does not provide a suitable degree of enclosure ;
- 4) The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the building would, if permitted result in a suburban style build-up of development when viewed with existing and approved buildings;
- the building would, if permitted add to a ribbon of development and would therefore result in a detrimental change to further erode the rural character of the countryside.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	8th June 2018
<b>Date First Advertised</b>	21st June 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 18 Garrison Road Knockcloghrim Londonderry The Owner/Occupier, 20 Garison Road, Toberhead, Knockloughrim, BT45 8RD The Owner/Occupier, 22 Garrison Road Knockcloghrim Londonderry The Owner/Occupier, 24 Garrison Road Knockcloghrim Londonderry The Owner/Occupier, 26 Garrison Road Knockcloghrim Londonderry	
<b>Date of Last Neighbour Notification</b>	26th June 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<b>Summary of Consultee Responses</b>	

**Drawing Numbers and Title**

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No.  
Type:  
Status: Submitted

Drawing No. 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> LA09/2018/0944/O	<b>Target Date:</b>
<b>Proposal:</b>  Dwelling and Garage (Infill)	<b>Location:</b> Approx. 90M SE of 43 Rocktown Road Bellaghy.
<b>Referral Route:</b> Contrary to CTY 1, CTY 8 & CTY 14 of PPS 21	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mr David Arrell 17 Taylorstown Hill Toomebridge BT41 3RL	<b>Agent Name and Address:</b> J E McKernan & Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### 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 recommended – contrary to CTY 1, CTY 8 & CTY 14 of PPS21.

**Characteristics of the Site and Area**

The proposal site is located within agricultural land located on Rocktown Road, Bellaghy. The proposal site is located immediately adjacent two recently constructed dwellings, a large two storey on the western boundary and a detached single storey on the eastern boundary. The dwelling on the eastern boundary has a detached garage to the rear of it. The access to the proposed site is via an existing agricultural lane. The proposal site is bounded on all sides by mature vegetation and planting.

**Description of Proposal**

Dwelling and Garage (infill)

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

I have assessed this proposal under the following:

SPSS

Magherafelt Area Plan 2015

Planning Policy Statement 21 - Sustainable Development in the Countryside

Neighbours: - Owners/Occupiers of Nos 43 & 45 Rocktown Road, Bellaghy were notified on 15.08.2018

Consultees: - Environmental Health were asked to comment and responded on 05.09.2018 with no objections to the proposal.

DfI were asked to comment and responded on 15.10.2018 stating:

'Council planning should note that the proposed access is onto a private road, as such DfI Roads have no formal response to give. We would advise the applicant ensure in the interest of pedestrian safety, road safety and convenience of road users, DfI would recommend that the minimum visibility splays of 2.0m x 33m at the access should be put in place and parking be designed to Creating places standard.'

NI Water were asked to comment and responded on 20.12.2018 with no objections subject to advice.

In line with legislation this proposal was advertised in the local press on 19.07.2018. No objections have been received to date.

According to policy there are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aims of sustainable development. One of these types of development is the development of a gap site within an otherwise substantial and continuously built up frontage in accordance with Policy CTY 8. CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development however an exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of environmental requirements.

This proposal site is located immediately adjacent to a large detached 2 storey dwelling on the western side and a newly constructed single storey dwelling and detached garage on the eastern. The dwelling and garage on the eastern boundary are not read as two buildings as the garage is set to the back of the dwelling and subordinate in size and when viewing the property. The proposed site is accessed via an existing agricultural laneway. Having considered the development surrounding the proposal site it is my consideration that the proposal site is not located within a substantial and built up frontage in a line of 3 or more buildings along a road frontage without accompanying development to the rear and as such fails to meet the requirements of policy CTY 8.

In addition the proposal should be assessed against the requirements of CTY 13 - Integration and Design of Buildings in the Countryside, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. This proposal is an outline application and as such no design has been indicated at this stage. The criteria under CTY 13 also states that the proposed new building must not be a prominent feature in the landscape, this proposal site is not a prominent site and due to the surrounding development and accessibility there would be no issues regarding prominence. Integration has to be considered against CTY 13 also. This proposal site is defined by mature vegetation on all sides and as such the proposal adheres to this criteria of the policy.

Finally the proposal should be assessed against the requirements of CTY 13 - Integration and Design of Buildings in the Countryside whereby it is stated 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 previously discussed the proposal site is not located within a substantial or built up frontage and as a dwelling located within the proposal site would create a ribbon of development along the laneway.

Having considered all of the above it is my opinion that the proposal does not meet the requirements of Planning Policy Statement 21 in that the proposed building would create a ribbon of development and as such cause a detrimental change to the rural character of the area.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal recommended

#### Reasons for Refusal:

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Rocktown Road.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted create a ribbon of

development and would therefore result in a detrimental change to (further erode) the rural character of the countryside.

**Signature(s)**

**Date:**



<b>ANNEX</b>	
<b>Date Valid</b>	5th July 2018
<b>Date First Advertised</b>	19th July 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 43 Rocktown Road Bellaghy Londonderry The Owner/Occupier, 45 Rocktown Road, Bellaghy	
<b>Date of Last Neighbour Notification</b>	15th August 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0944/O Proposal: Dwelling and Garage (Infill) Address: Approx. 90M SE of 43 Rocktown Road, Bellaghy., Decision: Decision Date:  Ref ID: LA09/2016/1403/F Proposal: Replacement Dwelling and Garage (Amendments Approved under H/2010/0424/F) (Amended drawings submitted) Address: 45 Rocktown Road, Bellaghy, Decision: PG Decision Date: 09.03.2018  Ref ID: H/2005/0285/O Proposal: Site of Dwelling and Garage Address: Approximately 110m South East of, 45 Rocktown Road, Bellaghy Decision: Decision Date:  Ref ID: H/2000/0699/O Proposal: Site of dwelling and garage Address: Site adjacent to 43 Rocktown Road, Knockloughrim Decision:	

Decision Date: 21.11.2000

Ref ID: H/2005/0288/O

Proposal: Site of Replacement Dwelling.

Address: 45 Rocktown Road, Bellaghy

Decision:

Decision Date: 03.02.2006

Ref ID: H/2001/0114/RM

Proposal: Dwelling And Garage

Address: Adjacent To 43 Rocktown Road, Knockloughrim

Decision:

Decision Date: 27.03.2001

Ref ID: H/2008/0553/RM

Proposal: Replacement Dwelling & Garage

Address: 45 Rocktown Road, Bellaghy.

Decision:

Decision Date: 21.01.2009

Ref ID: H/2010/0424/F

Proposal: Change of house type to that previously approved application

H/2008/0553/RM

Address: 45 Rocktown Road, Bellaghy

Decision:

Decision Date: 05.05.2011

Ref ID: H/2013/0335/RM

Proposal: Dwelling and garage

Address: Approx 110m South East of 45 Rocktown Road, Bellaghy,

Decision: PG

Decision Date: 06.11.2013

### **Summary of Consultee Responses**

### **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:

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1179/F	<b>Target Date:</b>
<b>Proposal:</b> Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business	<b>Location:</b> 39 Rocktown Road Bellaghy
<b>Referral Route:</b> Contrary to The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4 & PPS 21.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> N.Ireland Wedding Cars 39 Rocktown Road Bellaghy	<b>Agent Name and Address:</b> J E McKernan and Son 12 Cennick Road Gracehill Ballymena BT42 2NH
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

### Summary of Issues

Refusal recommended – proposal contrary to

### Characteristics of the Site and Area

The proposal site is located on the road side of Rocktown Road, Bellaghy. This site has a modest detached bungalow and several domestic outbuildings, some of which are in a poor state of repair. Surrounding the proposal site is agricultural land which drops away in level from the

proposal site. The road is a minor road which serves several properties but which leads to a dead end. The site has no distinctive or mature boundaries around it.

### **Description of Proposal**

Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business.

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

Consultees: - DfI were asked to comment and in their final response dated 19.11.2018 they are satisfied with the proposed access subject to conditions and informatives.

Site History - LA09/2016/0504/F - Approval granted 06.06.2018 for 'Erection of garages for the storage of vintage cars (retrospective), within this approval condition No. 2 specifically stated ' This permission authorises only private domestic use of the garage and does not confer approval on the carrying out of trade or business there from.' The reason for the this particular condition was stated as to prevent the creation of an unacceptable business use in the rural area.

This proposal is for the erection of garage to replace existing storm damaged garage in relation to ex. wedding car hire business. During the site visit carried out on 30.10.2018 it was noted the poor state of repair of the indicated building on site, it has been claimed that the building in question had been 'in use up to the time of the storm damage', however I would comment that it is unclear as to when the building was last in use as it appears to have been in disrepair for a long time with no available access unless through an adjacent agricultural field. The proposal description refers to 'ex. wedding car hire business', there was no evidence during the site visit as to the existence of this business. Upon discussion with senior planners the applicant was requested to amend the description of the proposal to 'domestic garage' as following the site visit and consideration of submitted information no business use has been established on site. This amendment has not taken place to date.

According to PED 2 of PPS 4 proposals for economic development uses in the countryside will be permitted in accordance with the provisions of PED 3, PED 4, PED 5 or PED 6. 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. This particular proposal is not considered the expansion or redevelopment of an established economic development use as the site is not considered as an existing business, nor is it considered as major industrial development or a small rural project. The proposal is not seeking permission for the wedding car business at this location but is claiming that this business is already established and the replaced garage is to be used in conjunction with this.

A supporting statement has been submitted dated 04.12.2018 whereby the agent has claimed that the business use had been accepted under LA09/2016/0504/F & H/2014/0039/CA, however this is not correct and the business use was never established but rather the building approved was specifically only for private domestic use. Should the applicant wish to establish the business use then he would be required to submit a Certificate of Lawfulness.

Considering the proposal against the requirements of PED 9 of PPS4 it would be my consideration that the proposal is not compatible with surrounding land uses unless amended to be a garage for domestic purposes only. The proposal site is not within an area affected by flood risk or have the potential to negatively impact on the natural or built heritage.

It should also be noted that the proposed replacement building is of a greater scale than that which is already existing, currently the existing building sits at a much lower level than that of the dwelling, yard and other buildings however it is unclear from the submitted drawings as to how the replacement building would sit and what visual impact it may create. Thus I feel this proposal fails to meet the requirements set out in PED 9 of PPS 4.

In addition the proposal should be assessed against the requirements of CTY 13 of PPS21 - Integration and Design of Buildings in the Countryside, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As submitted the plans do not clearly demonstrate how the proposed triple replacement garage would integrate into the site as currently the storm damaged building sits at a much lower level than the remainder of the site and buildings but it is not clear whether the replacement building would be built at this same level or the ground be built up and the replacement building sit at the same level as the dwelling and existing sheds. This point I do feel is important and would result in a building either being acceptable in terms of visual integration and it being unacceptable. Thus it is my consideration that as submitted there is not a sufficient degree of information to determine this impact.

Having considered all of the above I feel that a recommendation of refusal would be the most appropriate.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

1. The proposal is contrary to the Magherafelt Area Plan 2015, SPSS and Planning Policy Statement 4, Industrial Development Policy PED 2, PED3, PED4 & PED 9, in that the development would, if permitted, be incompatible with the character of the surrounding area by reason as it does not represent the expansion or redevelopment of an established economic development use in the countryside.

2. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development (PED 9) & Policy CTY 13 of PPS21, in that it has not been demonstrated that the proposed replacement building will not have an adverse visual impact in this countryside location.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	10th September 2018
<b>Date First Advertised</b>	27th September 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1133/RM Proposal: One and a half storey dwelling and Garage. Address: 40m North West of 39 Rocktown Road, Bellaghy., Decision: Decision Date:  Ref ID: LA09/2018/1179/F Proposal: Erection of garage to replace existing storm damaged garage in relation to Ex wedding car hire business Address: 39 Rocktown Road, Bellaghy, Decision: Decision Date:  Ref ID: H/1990/0539 Proposal: ALTS AND ADDS TO BUNGALOW Address: 39 ROCKTOWN ROAD CASTLEDAWSON Decision: Decision Date:  Ref ID: H/2001/0114/RM Proposal: Dwelling And Garage Address: Adjacent To 43 Rocktown Road, Knockloughrim Decision:	



Decision Date: 27.03.2001

Ref ID: LA09/2016/0504/F

Proposal: Erection of garages for the storage of vintage cars (retrospective)

Address: 39 Rocktown Road, Bellaghy,

Decision: PG

Decision Date: 08.06.2018

Ref ID: H/2014/0194/O

Proposal: One and a half storey farm dwelling and garage

Address: 40m north west of 39 Rocktown Road Bellaghy,

Decision: PG

Decision Date: 13.01.2016

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 03

Type: Proposed Plans

Status: Submitted

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

Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1349/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds	<b>Location:</b> Lands to the front of and north east of 102 and 104 Ballygawley Road and south of 101 Ballygawley Road Glenadush Co Tyrone
<b>Referral Route: Contary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Mr Bernard McAleer 7 Glenree Avenue Dungannon BT77 6XG	<b>Agent Name and Address:</b> Blackbird Architecture 4 Glenree Avenue Dungannon BT71 6XG
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



#### Consultations:

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

## Summary of Issues

Two letters of objection have been received from the owners of numbers 102 and 104 Ballygawley Road and the comments made have been considered below. All material considerations, including policy considerations, have been addressed within the determination of this application.

Main concerns raised;  
contrary to policy;  
applicant is not a farmer;  
access arrangements;

## Characteristics of the Site and Area

The application site is located to the East of number 102 Ballygawley Road. The red line of the site includes a narrow access along the Western boundary of the field, wraps around the rear and opens into a small rectangle in the East corner of the field. The field is bound on each of its sides by vegetation and hedgerows, however, the small red line of the rectangle is only bounded by vegetation on the NE side. The site is currently accessed via an existing agricultural access which is situated to the north western corner of the site. The field within which the application site is located makes up the entirety of this farm holding and members are advised that the lands within this farm holding do not host any farm buildings.

No's 104, 106, and 102 Ballygawley Road are residential dwellings in close proximity to the application site, to the west and south west respectively. In terms of elevation the site area rises from the road at the north to the south of the site where the proposed farm building is sited.

The site is situated on the Ballygawley Road, Dungannon, Co. Tyrone. The site is some 1.25km west of Dungannon and approx. 130m east of the nearby Eskragh Lough. This area is categorised as open countryside within the Dungannon & South Tyrone Area Plan 2010.

The area surrounding the site exhibits an undulating nature and can be described as a rural area with an element of small scale variation in elevation. The area surrounding the site is quite enclosed by landform and mature vegetation, however there is a greater degree of openness to the west of the application site where views open up across Eskragh Lough.

## Description of Proposal

The proposed application is for proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard standing areas for a new hobby farm holding for raising rare cattle and sheep breeds. The applicant has highlighted that the purpose of the proposed building is to house and farm machinery/equipment, fodder, and to isolate cattle for testing by a vet. The applicant also notes that only breeding stock will be retained all year round and it is

anticipated to be 2 no. rare breed cows. The breeding stock is to be housed in the shed over the winter months with the remainder sold off before winter.

The application relates to a 'hobby farm' which for the purposes of the application relates to a farm which the applicant will use to house rare breed cattle and sheep as a hobby in his retirement.

The proposal is sited to the south western corner of the application site and is measured at 10.5m in width and 18.5m in length. The maximum ridge height of the proposed shed is measured at 5m. The proposal includes the provision of external cattle pens and a cattle crush to the side of the shed in an area measured at 6m in width and 18.5m in length. Materials to be used on the proposed shed include a rendered masonry to lower walls, upper walls and roof cladding, goose wing grey, and goose wing grey rainwater goods.

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

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

1. Strategic Planning Policy Statement (SPPS).
2. Dungannon & South Tyrone Area Plan 2010.
3. Planning Policy Statement (PPS) 3 – Access, Movement and Parking.
4. PPS 6 – Planning, Archaeology and the Built Heritage.
5. PPS 21 - Sustainable Development in the Countryside.

#### **Planning History**

M/2010/0554/O - Proposed 2 dwellings (detached), Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone. PERMISSION REFUSED - 10.11.2010.

LA09/2017/0899/F - Proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds - Lands to the front of and north West of 102 and 104 Ballygawley Road and south of 101 Ballygawley Road Glenadush Co Tyrone- REFUSED - 11.09.18

#### **Representations**

Neighbour notification and press advertisement has been carried out in line with the Council's statutory duty. At the time of writing, two third party objections have been received from neighbouring dwelling at 102 and 104 - see consideration below.

#### **Assessment**

The principal planning policies are provided by the SPPS, PPS 21, PPS 15, PPS 6 and PPS 3.

The Strategic Planning Policy Statement (SPPS) for Northern Ireland – Planning for Sustainable Development, is a material consideration. The SPPS supersedes the policy provision within Planning Policy Statement (PPS) 1, 5 and 9. The policy provision within PPS 21, PPS 15 and PPS 3 have been retained under transitional arrangements. Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy.

PPS 21 sets out planning policies for development in the countryside whilst the policy provision within PPS 15 and PPS 3 deals with flood risk and access provision, respectively.

Policy CTY 1 within PPS 21 highlights that there are a number of developments which may be acceptable in the countryside. One of these is agricultural and forestry developments in accordance with Policy CTY 12.

#### CTY 12

Policy CTY 12 stipulates that planning permission will be granted for development on an active and established agricultural or forestry holding and within the amplification text, it clarifies that for the purposes of this policy the determining criteria for an active and established business will be that set out under Policy CTY 10. Policy CTY 10 stipulates that the farm business should be both active and established for a period of at least 6 years.

The applicant, within the supporting information submitted with the application, has conceded that the proposal is for a hobby farm and that the requisite DAERA farm business ID No. and maps have not yet been obtained. The supporting information outlines that the DAERA Business/Farm ID has not yet been applied for and that the application to DAERA will be submitted upon building the proposed cattle shed. The applicant has provided details of his father's farm business but again has conceded that the business ID expired some 25 years ago, and did not include the application lands. Whilst visiting the site I observed a number of grazing sheep on the application lands and noted that the lands were in decent agricultural condition.

On this basis on that above I can conclude that whilst the farm/field appears active the applicant has not been established for a period of at least 6 years. With this in mind I am not content that the agricultural holding is both active and established.

In support of adopting this approach to determining that the farm is both active and established, I would remind members of the approach taken by the PAC in two recent planning appeal decisions under 2016/A0007 and 2015/A0136. In both referenced appeals, the respective commissioners determined that although there was evidence that the appellant was actively engaged in farming activities they could not prove that they had been established for a period of at least 6 years and therefore they failed to meet the requirements of the policy.

CTY 12 includes five further criteria (a-e):

a) The proposal would provide a farm building on this farm holding for existing livestock and this would help the applicant provide facilities for livestock over the winter months. It would also provide facilities for sick and/or injured livestock. I consider that the applicant has provided sufficient evidence to confirm that the proposed farm shed (and associated facilities) would be necessary for the efficient use of the agricultural holding.

b) The proposal presents an agricultural building which is not considered uncommon within the context of this rural landscape. The materials used are similar to other types of agricultural development within this area.

In addition, it is noted that the proposal has been sited away from the dwellings at No's. 102 and 104 Ballygawley Road to try and minimise amenity issues and has instead been sited in the far corner of the field next to another farm shed, however, not in the

applicants ownership. The level of vegetation surrounding the site coupled with the existing building in the area restricts the level of impact associated with the proposal and on that basis, I consider that the proposal will not have a significant detrimental impact on the rural character of the area.

c) The proposed agricultural shed would benefit from the existence of natural vegetation and screening which are sited around the site area. As documented above, the location of other building to the east, help the proposal to integrate. The proposal would not present a prominent feature in the context of this rural landscape setting and I consider it to be successfully integrated. It must also be noted that there is a slight reduction in size to the previous proposal.

d) There are no sensitive natural heritage features of note within the site or the surrounding area. Department of Communities Historic Environment Division (HED) were consulted on the previous proposal due to siting in close proximity to two archaeological sites, noted as being a rath and an occupation site (Ref: TYR 054:031 & TYR 054:009). HED highlighted that the proposal is satisfactory to the SPPS and PPS 6 archaeological policy requirements. In consideration of that above, I am content that as this proposal is smaller in size and for the same intended use will not have a significant negative impact on the integrity of any archaeological features surrounding the site. And is compliant with the policy objective contained within the SPPS and PPS 6. I consider that the proposal will not have a negative impact on any natural/historic features or monuments.

e) It is noted that the proposal is sited some 100m away from the closest unconnected residential dwelling at No. 102 Ballygawley Road and some 130m from No. 104 Ballygawley Road. Objections have been received from both of these addresses. However, it must be noted that this is an increase in separation distances of 70metres in both cases as the applicant tries to overcome their amenity concerns.

#### CTY 12 – Additional Requirements

In addition to that above and in cases where a new building is proposed applicants will also need to provide sufficient information to confirm all of the following:

- There are no suitable existing buildings on the holding or enterprise that can be used;
- The design and materials to be used are sympathetic to the locality and adjacent buildings; and
- The proposal is sited beside existing farm or forestry buildings.

The applicant has provided a supporting statement which identifies that there are no other buildings on the holding and that the proposal relates to the provision of a farm building to allow for a start-up farm business to be used as a hobby farm. It is therefore considered that there are no other buildings on the holding or enterprise which could be used. It must be noted that there is no specific planning policy for first farm sheds for start-up farmers.

Prior to the refusal the area manager and senior planner had a meeting with the applicant and his agent, the reasons for refusal were explained and discussed. It was also explained that there was no policy for new start farmers and this is something, which is to be dealt with in the new Area Plan. The applicant was then told of the need to make an exception to policy as they had not been established and active for the required time.

**CTY 13 & 14**

An assessment of the proposed siting of the development along with its visual and physical impact has been documented within parts b and c, above. In terms of visual integration and impact on rural character members are advised that the proposal is deemed to satisfactorily integrate into the surrounding rural landscape setting. I consider the proposal to be compliant with the policy provision contained within Policies CTY 13 and 14 of PPS 21.

**PPS 3**

Department for Infrastructure Roads (DFI Roads) were consulted on this application and have returned comment highlighting that they are content with the proposed access to the site.

**Objections**

Two letters of objection have been received on this application and the issues raised can be identified below:

Access and road safety;

Compliance with planning policy (Business ID and Active/Established);

Proposed use;

Setting precedent;

**Consideration.**

As discussed above, the proposal is deemed to comply with the policy requirements of PPS 3 – Access, Movement and Parking, per DFI Roads comments. No concerns over access.

With regards to the proposal being compliant with policy, please see detailed assessment above. The applicant has failed to demonstrate that the proposal has been established for at least 6 years.

The objectors raised concerns surrounding the proposed use of the proposal. The application relates to the use of the proposal for farming purposes and as such I have considered it on that basis.

The objector also raised concerns that were this type of application to be concerned it will lead to a dwelling house and therefore set a dangerous precedent, however, I can only assess the application for what it is proposing.

**Conclusion**

Members are advised that whilst the proposal has reduced the size and amended the siting to overcome amenity issues the original issues with the previous proposal apply in that the applicant has failed to demonstrate that the proposal has been established for at least 6 years and the applicant has not demonstrated why this application should be considered an exception.

**Neighbour Notification Checked**

**Yes**



**Refusal Reasons**

1. The proposal is contrary to Policy CTY 12 of Planning Policy Statement 21, sustainable development in the countryside in that it has not been demonstrated that the farm business has been established for a period of at least 6 years.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	10th October 2018
<b>Date First Advertised</b>	25th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 101 Ballygawley Road Dungannon Tyrone The Owner/Occupier, 102 Ballygawley Road Dungannon Tyrone Brian Quinn 102 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 104 Ballygawley Road Dungannon Tyrone Joe McNulty 104 Ballygawley Road, Dungannon, Tyrone, Northern Ireland, BT70 1TA The Owner/Occupier, 17 Eskragh Road,Dungannon,Tyrone,BT70 1NN, The Owner/Occupier, 48 Old Caulfield Road Dungannon Tyrone The Owner/Occupier, Loughmor Furniture,104 Ballygawley Road,Dungannon,Tyrone,BT70 1TA,	
<b>Date of Last Neighbour Notification</b>	1st November 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1349/F Proposal: Proposed cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing area for a new hobby farm holding for raising rare cattle and sheep breeds Address: Lands to the front of and north east of 102 and 104 Ballygawley Road and south of 101 Ballygawley Road Glenadush Co Tyrone, Decision: Decision Date:  Ref ID: M/2010/0554/O Proposal: Proposed 2 dwellings (detached) Address: Adjacent to 102 Ballygawley Road, Eskragh, Dungannon, Co Tyrone Decision:	

Decision Date: 10.11.2010

Ref ID: M/1999/0820/O

Proposal: Retirement Bungalow

Address: 45m north east of no. 102 Ballygawley Road Dungannon.

Decision:

Decision Date: 14.02.2001

Ref ID: LA09/2017/0899/F

Proposal: Cattle handling facilities and cattle isolation facilities to take the form of a cattle shed, force pen, cattle crush, collecting pen and hard-standing areas for a new hobby farm holding for raising rare cattle and sheep breeds

Address: Lands to the front of and NE of 102 and 104 Ballygawley Road and South of 101 Ballygawley Road, Glenadush,

Decision: PR

Decision Date: 11.09.2018

### **Drawing Numbers and Title**

Drawing No. 03

Type: Proposed Plans

Status: Submitted

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

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


Date of Notification to Department:

Response of Department:



## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1355/F	<b>Target Date:</b>
<b>Proposal:</b> Construction of single garage semi detached to neighbours existing garage (ie no 4 Parkmore Gardens)	<b>Location:</b> 6 Parkmore Gardens Magherafelt Bt45 6PQ.
<b>Referral Route:</b>  This application is being referred to committee as the agents spouse is employed by Mid Ulster Council Planning Department as administration officer	
<b>Recommendation:</b>	Approval
<b>Applicant Name and Address:</b> Mr R & Mrs C Rainey 6 Parkmore Gardens Magherafelt BT45 6PQ	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report		
<b>Site Location Plan</b>		
		
<b>Consultations:</b>		
<b>Consultation Type</b>	<b>Consultee</b>	<b>Response</b>
<b>Representations:</b>		
Letters of Support	1	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
<p>No statutory bodies were consulted on this application. All other material considerations have been addressed herein.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The site is located at 6 Parkmore Gardens, Magherafelt and is located within the designated settlement limits as identified in the Magherafelt Area Plan, 2015. On site is a semi-detached single storey dwelling, with a garden area to the front, western side and rear. The boundary to the rear consists of a 1.8m wooden fence and a small wall approx. 1 – 1.2 m to the eastern side. The boundary to the front is open plan and there is a small, low-level fence between the dwelling on the application site and the adjoining property at No 8. The elevations of the site falls from west to east, with the dwelling at No 4 sitting at a slightly higher elevation to that at No 6.</p>		
<b>Description of Proposal</b>		
<p>This application seeks planning permission for the construction of a single garage semi detached to neighbours existing garage (ie at No 4 Parkmore Gardens).</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		

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

1. Strategic Planning Policy Statement (SPPS)
2. Magherafelt Area Plan, 2015.
3. PPS 7 Residential Extension and Alterations 'Addendum' (APPS 7)

#### Planning History

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

#### Representations

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

#### Assessment

The SPPS is guidance for Councils on the Local Development Frameworks and it contains some policies that should be taken into account when considering planning applications. It does not, in my opinion provide any clarification or change in policy to any retaining policy that is relative to this development.

The principle of development for a detached garage, is considered to be acceptable, providing it meets the four criteria tests as outlined under policy EXT 1 of the first addendum to PPS7;

In regard to visual amenity, part A identifies that the overall siting, scale and design of the proposed extension should appear subordinate to the original host property and should not be detrimental to the character and appearance of the surrounding area.

I consider the detached single storey garage will not present a significant or overbearing difference when compared with the existing setting. I am content that it will not prove to be over dominant or intrusive in the context of the surrounding character of the area. The proposed development is therefore considered to be acceptable in regards to the objectives of Part A of policy EXT 1.

Part B of Policy EXT 1 identifies that a development proposal of this nature would only be considered acceptable where there would be no harmful impact upon the occupiers of adjoining neighbouring properties. The proposal is not considered to give rise to any significant impact upon the amenity of neighbouring dwellings because of over dominance, overshadowing or a loss of privacy and is not perceived to have any negative impact on residential amenity. The proposal is therefore considered to concur with the objectives of Part B of Policy EXT 1.

I requested consent to the proposed development from the occupants of No 4 Parkmore Gardens. This was received on 11.12.2018.

There would be minimal loss of any landscape features and sufficient space remains within the curtilage of the property for parking and manoeuvring of vehicles. I consider the proposal satisfies the objectives of Part C and D of Policy EXT 1.

#### Conclusion

I conclude that the proposed development is considered to be in compliance with the policy considerations highlighted above and accordingly approval is recommended.

<b>Neighbour Notification Checked</b>	Yes
<b>Summary of Recommendation:</b>	
Approve, subject to the conditions below.	
<b>Conditions/Reasons for Refusal:</b>	
<p>Conditions</p> <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>2. The materials of the proposed garage will match that of the existing dwelling as annotated on drawing no. 01, date stamped 11.10.2018.</p> <p>Reason: In the interest of visual amenity and to maintain the character of the area.</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 permission does not alter or extinguish or otherwise affect any existing or valid right of way crossing, impinging or otherwise pertaining to these lands.</p>	
<b>Signature(s)</b>	
<b>Date:</b>	

<b>ANNEX</b>	
<b>Date Valid</b>	11th October 2018
<b>Date First Advertised</b>	25th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 3 Parkmore Avenue, Magherafelt, Londonderry, BT45 6PE The Owner/Occupier, 4 Parkmore Gardens, Magherafelt, Londonderry, BT45 6PQ Samuel Watson 4, Parkmore Gardens, Magherafelt, Londonderry, Northern Ireland, BT45 6PQ The Owner/Occupier, 5 Parkmore Avenue Magherafelt Londonderry The Owner/Occupier, 5 Parkmore Avenue Magherafelt Londonderry The Owner/Occupier, 8 Parkmore Gardens Magherafelt Londonderry	
<b>Date of Last Neighbour Notification</b>	30th November 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/1355/F Proposal: Construction of single garage semi detached to neighbours existing garage (ie no 4 Parkmore Gardens) Address: 6 Parkmore Gardens , Magherafelt, Bt45 6PQ., Decision: Decision Date:   Ref ID: H/1990/0606 Proposal: EXTENSION TO DWELLING AND DOMESTIC GARAGE Address: 3 PARKMORE AVENUE MAGHERAFELT Decision: Decision Date:	



**Summary of Consultee Responses****Drawing Numbers and Title**

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 01

Type: Proposed Plans

Status: Submitted

**Notification to Department (if relevant)**

Date of Notification to Department:

Response of Department:



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

**Development Management Officer Report  
Committee Application**

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1450/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed New Dwelling and Domestic Garage in Infill Site	<b>Location:</b> Infill Site between 6 & 6A Carnose Road Moneymore Magherafelt BT45 7TY
<b>Referral Route: Contrary to CTY 1, 8, &amp;14 of PPS 21</b>	
<b>Recommendation:</b>	<b>Refuse</b>
<b>Applicant Name and Address:</b> Mr Rodney Mitchell 4 Desertlyn Road Moneymore Magherafelt BT45 7TY	<b>Agent Name and Address:</b> Gibson Design & Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 OBR
<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
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 :** None

### Characteristics of the Site and Area

The site is located approximately 2.5 miles south of Desertmartin in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located in roadside plot between No 6 and No 6a Carnose Road and consists of small agricultural field. The site sits slightly higher than the road and the site is relatively flat in nature. A post and wire

fence defines the roadside boundary and sparse hedgerows and mature trees define the remaining boundaries. Immediately to the west of the site there is a residential property consisting of a single storey dwelling and garage. And immediately to the east there is a small farm complex consisting of a roadside corrugated shed and to the rear of it there is a dwelling and some outbuildings.

### **Description of Proposal**

The proposed dwelling has a 12.7m frontage with a gable depth of 9.2m and has a ridge height of 7.2m above finished floor level. A single storey side projection, rear return and a small porch are also proposed. The chimney is expressed on the ridge, the wall finishes are roughcast render and locally sourced basalt stone to porch and the roof finish is blue/black natural slate.

The detached garage measures 9.7m x 6.6m and has a ridge height of 5.1m above ground level and the finishes will be as above.

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

#### **Relevant Site History:**

H/2004/1104/O - Site of Dwelling and Garage. Permission Refused 23rd January 2006, for the following reasons:

#### **Refusal Reasons**

1. The proposal is contrary to Policies SP6, SP19, DES5 & HOU8 of the Department's Planning Strategy for Rural Northern Ireland in that a building on this site would, if permitted, have an adverse impact on the landscape as this suburban form of roadside development does not respect the dispersed pattern of settlement in the countryside.

2. The proposal is contrary to Policies SP6, DES6 & HOU8 of the Department's Planning Strategy for Rural Northern Ireland in that the development when considered in the context of existing development, would, if permitted, result in a detrimental change to the rural character of this area of countryside by reason of build up.

H/2009/0432/O - Site of proposed dwelling and garage. Application Withdrawn on 11th January 2011 before the refusal notice was issued, however a recommendation for refusal was made on the following grounds:

#### **Refusal Reasons**

1. The proposal is contrary to Policy CTY1 and CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal would, if permitted, result in the creation of ribbon development along Carnose Road and would therefore adversely affect the visual amenity and character of the countryside.

2. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted result in a suburban style build-up of development when viewed with existing buildings and the building would, if permitted create a ribbon of development resulting in a detrimental change to the rural character of the countryside.

**Representations:**

2 neighbour's notification letter were sent to the occupiers of Nos 6 & 6a Carncose Road, Moneymore  
No letters of representation have been received.

**Development Plan and Key Policy Consideration:**

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherfelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside CTY1, CTY8, CTY13 & CTY14 are applicable. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

This policy states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception will be permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses within an otherwise substantial and continuously built up frontage and provided this respects the existing development pattern along the frontage in terms of size, scale, siting and plot size and meets other planning and environmental requirements. For the purpose of 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 application is seeking outline permission for an infill site between properties at No 6 and 6a Carncose Road.

The property west of the site at No 6a consists of a single storey dwelling and garage and a small paddock/agricultural field separates the front of the dwelling at No 6a from the Carncose Road. However, due to a sharp bend in the road it is acknowledge that the side of the property at No 6a has a road frontage. Whilst it is acknowledge that the dwelling has a frontage to the road, the garage on the other hand does not because it is set behind the dwelling and is obscure from view.

The property to the east consists of a roadside corrugated farm shed. Located to the rear of the shed there is two dwellings and number of outbuildings. The roadside corrugated shed has a frontage to the road, whilst the two dwellings, which are both accessed via a shared laneway running alongside the shed do not have frontage onto the road.

I can only observe two buildings, the dwelling at No 6a and the corrugated farm shed, that have a road frontage and in the absence of a substantial and built up frontage consisting of a line of 3 or more buildings along a road frontage, the proposal is contrary to CTY 8.

I have determined that the site not to be within a substantial and continuously built up frontage, therefore no infill opportunity arises and issues regarding plot size, frontage size and development pattern are not relevant.

#### **Previous Application on the site - H/2009/0432/O.**

The site was already assessed under PPS 21 and considered contrary to CTY 8 and CTY 14 and before the decision was issued, the applicant withdrew the application.

In the Senior Planner's reconsideration of the proposal, he made the following comment:

- This is not a built-up frontage in my view, even with the definition within PPS21 now referring to a line of 3.
- I can realistically only observe 2 buildings with the gap site located between – existing boundary vegetation screens lower outbuildings to the rear of the site.
- The proposal fails in terms of CTY8.

The policy for infill dwellings has not changed since the application was withdrawn in January 2011. The applicant has not provided justification why it should now be considered acceptable under CTY 8. Therefore, the proposal is still contrary to CTY 8 of PPS 21.

#### **Integration**

Policy CTY13 states that Planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. The existing vegetation along the site boundaries would provide a suitable degree of enclosure for the proposed dwelling, which has a ridge height of 7.2m, to integrate into the landscape. In terms of design, the proposed dwelling is considered modest in size and scale and of simple design and portions and complies with the design guide Building on Traditions.

#### **Impact on Character and Appearance of the Area**

Policy CTY14 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. It also states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing development and approved buildings and where it creates or adds to a ribbon of development. A new dwelling would visually link with the corrugated farm shed, the two dwellings to the rear of the shed and the dwelling and garage at No 6a located south of the site. I have already determined that the proposal would add to a ribbon of

development, which is a suburban style of development. This would therefore cause detrimental change to, and further erode the rural character of the area. The proposal is contrary to criteria (b) and (d) of Policy CTY 14.

#### **Other Matters**

The applicant has not sought to argue that the proposed development falls into any other category of acceptable development identified in Policy CTY1. No other evidence has been advanced that the proposed development could not be located in a settlement. Therefore, the proposal is contrary to CTY1 of PPS21.

#### **Other Material Consideration.**

I am satisfied that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking. Furthermore I am satisfied that the proposed site will not have significant adverse impact on neighbouring amenity, however this will be further considered at RM stage if approval is forthcoming.

**Neighbour Notification Checked      Yes**

#### **Summary of Recommendation: Refuse - Contrary to CTY 1, 8 & 14 of PPS 21**

##### **Refusal Reasons**

- 1.The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement
- 2.The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a small gap site in a substantial and continuously built up frontage and would, if permitted, result in the creation of ribbon development along this stretch of the Carnose Road
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, result in a suburban style build-up of development when viewed with existing buildings and would, if permitted not respect the traditional pattern of settlement exhibited in that area and would, if permitted create a ribbon of development at this stretch of the Carnose Road and therefore result in a detrimental change to the rural character of the countryside.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	1st November 2018
<b>Date First Advertised</b>	15th November 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 6 Carncase Road Moneymore Londonderry The Owner/Occupier, 6a Carncase Road Moneymore	
<b>Date of Last Neighbour Notification</b>	20th November 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1450/F Proposal: Proposed New Dwelling in Infill Site Address: Infill Site between 6 & 6A Carncase Road, Moneymore, Magherafelt, BT45 7TY, Decision: Decision Date:  Ref ID: LA09/2017/0832/RM Proposal: Replacement dwelling with existing dwelling retained for non residential use Address: 6 Carncase Road, Moneymore, Magherafelt, Decision: PG Decision Date: 11.08.2017  Ref ID: LA09/2017/0165/O Proposal: Replacement Dwelling with Existing Dwelling Retained for Non-residential Use. Address: 6 Carncase Road, Moneymore, Magherafelt BT45 7RG, Decision: PG Decision Date: 22.05.2017  Ref ID: H/2003/0552/RM Proposal: Dwelling and detached domestic garage. Address: Land 80m west of 6 Carncase Road, Moneymore, Magherafelt. Decision: Decision Date: 20.08.2003	



Ref ID: H/2004/1104/O  
 Proposal: Site of Dwelling and Garage.  
 Address: Adjacent to 6 Carncose Road, Moneymore.  
 Decision:  
 Decision Date: 30.01.2006

Ref ID: H/2002/0817/O  
 Proposal: Site of dwelling and garage.  
 Address: 80 Metres West of 6 Carncose Road, Moneymore, Magherafelt.  
 Decision:  
 Decision Date: 23.01.2003

Ref ID: H/1999/0711/Q  
 Proposal: Proposed Site For Dwellings  
 Address: Carncose Road Moneymore Road Magherafelt  
 Decision:  
 Decision Date:

Ref ID: H/2009/0432/O  
 Proposal: Site of proposed dwelling and garage  
 Address: 30m West of 6 Carncose Road, Moneymore  
 Decision:  
 Decision Date: 11.01.2011

### **Summary of Consultee Responses**

### **Drawing Numbers and Title**

Drawing No. 01  
 Type: Proposed Plan  
 Status: Submitted

Drawing No. 02  
 Type: Garage 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> LA09/2018/1458/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling	<b>Location:</b> 50m South West of 55 Kanes Rampart Derrylaughan Coalisland
<b>Referral Route: Contrary to policy</b>	
<b>Recommendation:</b>	Refusal
<b>Applicant Name and Address:</b> Owen Campbell 55 Kanes Rampart Derrylaughan Coalisland	<b>Agent Name and Address:</b> Sam Smyth Architecture Unit 45D Dungannon Enterprise Centre 2 Coalisland Road Dungannon BT71 6JT
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice

### 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 comprises an 'L' shaped portion of a field located to the rear and the SW of No.55 Kanes Rampart, Derrylaughan. The site is currently used as agricultural grazing land. It is bounded along the dwelling by a post and wire fence, to the east and west by mature hedgerow and the remaining boundary to the south is undefined on the ground. The land is relatively flat.

The site lies within the open countryside outside all other areas of constraint as depicted in the Dungannon and South Tyrone Area Plan 2010. The surrounding land could be described as poor quality agricultural or peatland. The site is part of Kanes Rampart and is located a short distance to the East of the settlement limits of Clonoe. There is a scattering of single dwellings located mainly to the SE.

### **Description of Proposal**

The proposal seeks outline planning permission for a site for a dwelling under policy PPS21 CTY 2a.

### **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.

Strategic Planning Policy Statement (SPPS)  
 PPS 21: Sustainable Development in the Countryside  
 CTY 1- Development in the Countryside  
 CTY 2a – New Dwellings in Existing Clusters  
 CTY 8 – Ribbon Development  
 CTY 13 – Integration and Design of Buildings in the Countryside; and  
 CTY14 – Rural Character  
 PPS 3 - Access, Movement and Parking;

The 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. With regards to this application. Planning permission

will be granted for a dwelling at an existing cluster of development provided all the following criteria are met:

- The cluster of development lies outside of a farm and consists of four or more buildings (excluding ancillary buildings such as garages, outbuildings and open sided structures) of which at least three are dwellings;
- The cluster appears as a visual entity in the local landscape;
- The cluster is associated with a focal point such as a social/community building/facility, or is located at a cross-roads,
- The identified site provides a suitable degree of enclosure and is bounded on at least two sides with other development in the cluster;
- Development of the site can be absorbed into the existing cluster through rounding off and consolidation and will not significantly alter its existing character, or visually intrude into the open countryside; and
- Development would not adversely impact on residential amenity.

With regards to the first criteria I am content that the site is located outside any farm, 6 of the dwellings within the applicants proposed cluster are also dwellings.

With regards to the second criteria I am not convinced that the cluster appears as a visual entity in the local landscape. From the aerial photography it would appear that the dwellings are clustered within one grouping, however, upon site inspection I did not feel that they read as one visual entity. The mature boundary to the east acts a division between the site and the dwellings to the East. In addition the separate road access than the 5 dwellings to east also contribute to the sense of division.

With regards to the third criteria the cluster being associated with a focal point the agent is their supporting statement identified that the site does not cluster with any focal point such as a social/community building/facility, however, has requested that a cross roads be considered as the focal point. I would disagree strongly with this opinion, firstly as the identified crossroads is not a cross roads but a T-Junction and secondly because the site is not located at the junction but over 300 metres to the South West.

The fourth criteria requires the proposed development to be able provide suitable degree of enclosure and to be bounded on at least two sides with other development in the cluster. In addition the policy states that the site is able to be absorbed into the existing cluster through rounding off. There is a dwelling on the SE and NW boundaries and I am content that a dwelling could integrate at this site.

The final criteria requires the development to not have an adverse impact on residential amenity. Upon a site visit I am of the opinion that an appropriately designed dwelling would not have an adverse impact on residential amenity.

For the above reasons it is evident that the proposed development fails under policy CTY 2a.

In the submitted supporting statement the agent made reference to CTY 8, this was considered and was noted during discussions with the Planning Manager and it was noted that it does not comply with CTY 8 as the site does not share a common roadside frontage.

Policy CTY 13 states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design. As this an outline application no design details etc. have been submitted however an appropriately designed dwelling would not be prominent in the landscape. The site does benefit from existing vegetation, this coupled with the surrounding development I am of the opinion that a dwelling would be capable of integrating into the landscape however additional planting will be needed to aid this. There is a mix of dwelling sizes in the near vicinity however I am of the opinion that if permitted the dwelling should be restricted to a 6.0m ridge height from finished floor level.

Policy CTY 14 deals with rural character and states that planning permission will be granted where the building does not cause detrimental change to, or further erode the rural character of the area. As stated I am content that an appropriately designed dwelling will not be prominent feature nor will it result in a suburban style build-up of development.

#### PPS 3 - Access, Movement and Parking

DFI Roads were consulted and responded;

"The proposed development directly adjoins a private laneway.

The department has no objection, however if MUC Planning are mindful to approve this application, please include the following informative:

The developer, future purchasers and their successors in title should note that the access way and parking areas associated with this development are, and will remain, private. The Department for Infrastructure has not considered, nor will it at any time in the future consider, these areas to constitute a "street" as defined in The Private Streets (Northern Ireland) Order 1980 as amended by the Private Streets (Amendment) (Northern Ireland) Order 1992.

Responsibility for the access way and parking areas rests solely with the developer."

Refusal recommended

#### Neighbour Notification Checked

**Yes**

#### Refusal Reasons

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

2.The proposal is contrary to Policy CTY2a of Planning Policy Statement 21, New Dwellings in Existing Clusters in that the cluster does not appear as a visual entity in the local landscape) and it is not associated with a focal point nor located at a cross-roads.

3. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposed site does not exhibit a small gap within an otherwise substantially built up frontage and would, if permitted, result in the addition of ribbon development along Kanes Rampart.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	5th November 2018
<b>Date First Advertised</b>	22nd November 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 51 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 55 Kanes Rampart, Coalisland, Tyrone, BT71 4QY The Owner/Occupier, 60 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 63 Kanes Rampart Coalisland Tyrone The Owner/Occupier, 63 Kanes Rampart, Coalisland, Tyrone, The Owner/Occupier, 66 Kanes Rampart Coalisland Tyrone	
<b>Date of Last Neighbour Notification</b>	15th November 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Drawing Numbers and Title</b>	
Drawing No. 01 Type: Site Location Plan Status: Submitted	
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:	





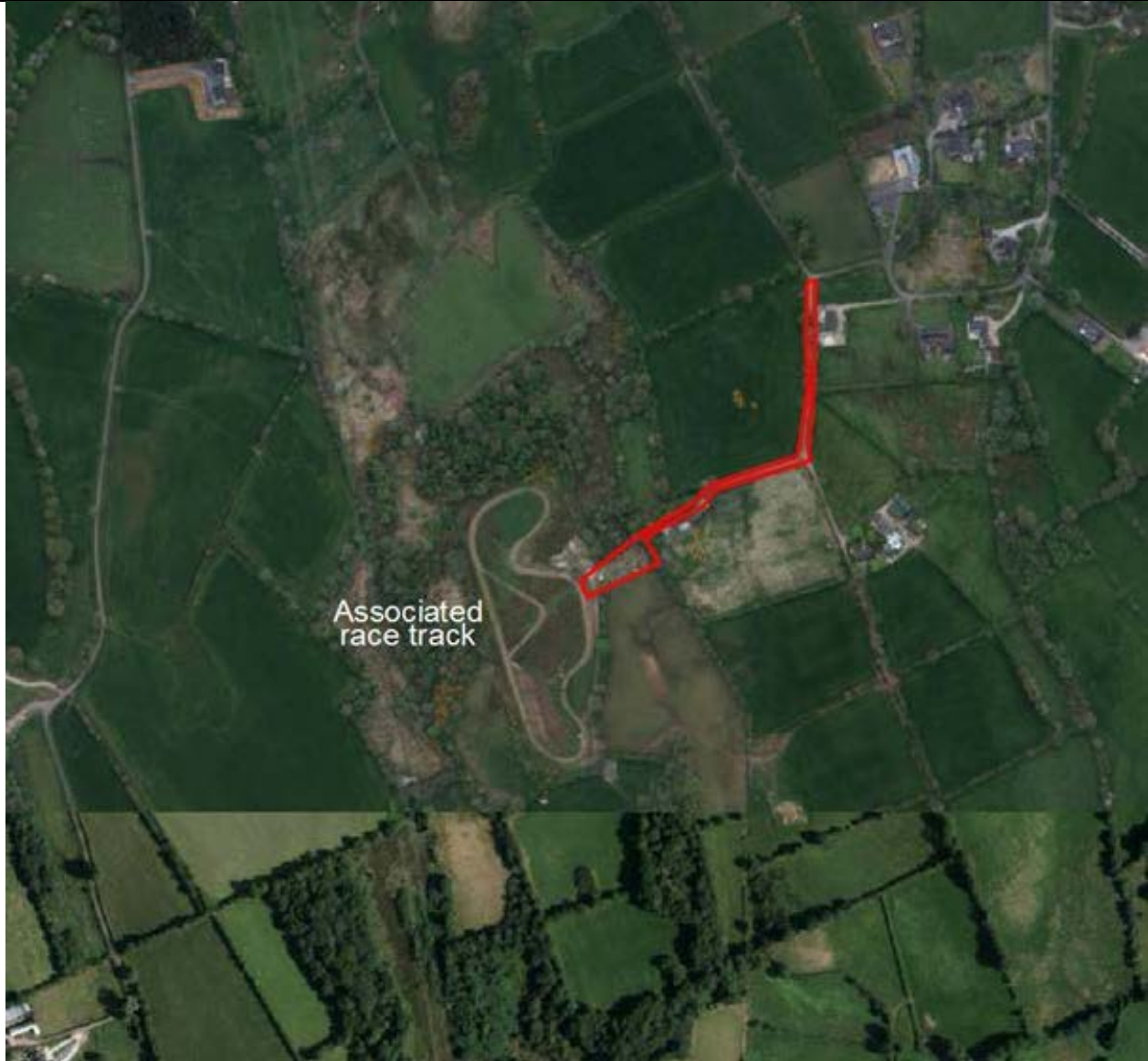
Comhairle Ceantair  
**Lár Uladh**  
**Mid Ulster**  
District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1464/F	<b>Target Date:</b>
<b>Proposal:</b> Retrospective planning application for retention of general office/shelter, store building and control tower	<b>Location:</b> 250m West of 7A Ballymoghane Lane Magherafelt
<b>Referral Route:</b>  This application is being presented to Committee as two objections have been received in respect of the proposed development.	
<b>Recommendation:</b>	APPROVE
<b>Applicant Name and Address:</b> Mr Robert Brown 11A Ballymulligan Road Magherafelt	<b>Agent Name and Address:</b> Gibson Design and Build 25 Ballinderry Bridge Road Coagh Cookstown BT80 0BR
<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	1
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

### Summary of Issues including Representations

Two representations have been received in respect of this application and relate to the following issues:-

The site is home to protected species;

The visual and environmental impact;

The impact on residential amenity;

Additional traffic on the laneway;

The above issues have been addressed in the case officers report below.

Safety of pedestrians;

As the proposed development is not considered to generate additional traffic, it will not have a further impact on pedestrian safety over and above the existing approved race track.

Damage being caused to Ballymoghlan Lane;

If traffic using Ballymoghlan Lane is causing damage to the public road, this is a matter for DfI Roads to investigate. As discussed below, it is not anticipated that the proposed development will generate any additional traffic. If existing traffic is causing damage to private property, this is a civil matter between the parties concerned.

Unauthorised sign advertising the race track;

Race track operating outside operating hours;

Dumping of soil, muck and rubble on the race track;

These issues have been referred to MUDC planning department's enforcement section for investigation.

The need for an Environmental Impact Assessment in connection with the approved race track;

An Environmental Impact Assessment was undertaken in connection with the approved race track (ref: H/2008/0599/F). The proposed development was screened on 26th November 2008 for the need to provide an Environmental Statement which was determined as not being required.

### Description of proposal

Retrospective planning application for retention of general office/shelter, store building and control tower in association with the approved race track.

The buildings measure:-

Control tower – 4.28m x 2.75m with a height of 2.75m;

Store building – 9.0m x 5.9m with a height of 2.95m; and

General office/shelter – 9.55m x 3.0m with a height of 2.95m.

All buildings have the same external finishes of Sandtex render – painted with flat felted roofs. The control tower is sited immediately adjacent to the race track so as to oversee the race track participants while the store building and general office building are set back to the rear southern boundary fence.

### Characteristics of the site and area

The site is located approximately 200m north west of 7 Ballymoghlan Lane and 90m south west of a small temporary building which apparently has a postal number of 7c Ballymoghlan Lane. The site is accessed via an existing lane leading to the approved race track and rough ground used as a parking area. The three proposed buildings are on site and are site between the access gate to the site and the approved race track. This area is also used for parking agricultural machinery.

The general area is characterised by single dwellings set back off the road with associated farm and outbuildings.

#### Planning Assessment of Policy and other Material Considerations

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

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

The proposal accords with the Magherafelt Area Plan 2015 insofar as it is for building associated with an approved race track.

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

Magherafelt Area Plan 2015: The site is located within the open countryside outside of a defined settlement limit.

SPPS – Strategic Planning Policy for NI

PPS 3 – Access, Movement and Parking

PPS 8 – Open Space, Sport and Outdoor Recreation

PPS 21 – Sustainable Development in the Countryside

CTY 1: Development in the Countryside

DCAN 15 – Vehicular Access Standards

#### Planning History

H/2008/0599/F - Restrospective application for retention of existing Race Track for Off Road Buggies Approved 17.06.2011

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

PPS 8 – Policy OS3 - Outdoor Recreation in the Countryside states that permission will be granted for proposals outdoor recreational use in the countryside where all of the stated criteria are met.

During the site visit I did not see any evidence of the wildlife referred to in the objectors letter and as the proposed buildings are located on an area of hardstanding already approved as a car park area in connection with the race track (ref: H/2008/0599/F) the proposal will have no additional impact on such wildlife. Therefore, a consultation with NIEA Natural Heritage and/or RSPB was not required.

The proposal will not result in any loss of agricultural land and will not have an unacceptable impact of agricultural activities;

Due to the distance the proposed buildings are located of the public road and the level of mature vegetation between the site and the public road, there will be little if any views of the site. Therefore the site can achieve an acceptable degree of integration and there is no adverse impact on visual amenity and rural character.

The proposal will not have any additional impact on residential amenity as it is located 200m from the nearest dwelling which lawfully exists. Although there is a temporary dwelling closer to the site and which is 60m to the east, it does not have the benefit of either planning approval or a Certificate of Lawfulness for the existing use. Therefore the impact of the proposal on that building cannot be considered as a reason for refusal.

The proposal will have no impact on public safety. As the development is in association with the existing race track it is considered to be compatible with the nature, scale, extent and frequency of the existing recreational activities;

Whilst the design of the buildings are not of a particularly high standard, they are acceptable standard for the proposed use and as they have flat roofs they will not be visible from public view points.

The proposal takes account of the needs of people with disabilities as they are set on a flat site and area generally accessible to all;

As the proposal is to accommodate the existing use of the race track participants it is not considered to generate additional traffic. Therefore a consultation with DfI Roads was not considered necessary.

As the proposal satisfies all the criteria of PPS 8 - Policy OS 3, it is also acceptable under Policy CTY 1 of PPS 21.

CTY 13 – Integration and design of buildings in the countryside

The integrational potential of the proposed buildings has been considered above.

CTY 14 – Rural Character

The impact of the proposed buildings on rural character has been considered above.

Recommendation

On consideration of the above, it is my opinion that planning permission should be granted for the proposed development subject to the following conditions:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

Conditions/Reasons for Refusal:

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

Reason: This is a retrospective application.

2. The buildings hereby approved shall be used only in connection with the existing approved race track and for no other purpose in the Schedule to the Planning (Use Classes) Order (Northern Ireland) 2015.

Reason: To prohibit a change to an unacceptable use within the Use Classes Order.

Signature(s)

Date:

ANNEX	
Date Valid	6th November 2018
Date First Advertised	22nd November 2018
Date Last Advertised	
<p>Details of Neighbour Notification (all addresses)</p> <p>CF Brown  5 Woodlands Holywood Down  The Owner/Occupier,  7 Ballymoghane Lane, Magherafelt, Londonderry, BT45 6HW  Norgate  7, Ballymoghane Lane, Magherafelt, Londonderry, Northern Ireland, BT45 6HW  The Owner/Occupier,  7a, Ballymoghane Lane, Magherafelt, Londonderry, BT45 6HW  The Owner/Occupier,  7c, Ballymoghane Lane, Magherafelt, Londonderry, BT45 6HW  The Owner/Occupier,  9 Ballymoghane Lane, Magherafelt, Londonderry, BT45 6HW</p>	
Date of Last Neighbour Notification	23rd November 2018
Date of EIA Determination	
ES Requested	Yes /No
<p>Planning History</p> <p>Ref ID: LA09/2018/1464/F  Proposal: Retrospective planning application for retention of general office/shelter, store building and control tower  Address: 250m West of 7A Ballymoghane Lane, Magherafelt,  Decision:  Decision Date:</p> <p>Ref ID: LA09/2016/1271/O  Proposal: Proposed site for new dwelling on farm  Address: Approx 60m South West of no.7 Ballymoghane Lane, Magherafelt,  Decision: PG  Decision Date: 14.02.2017</p> <p>Ref ID: H/2010/0206/F  Proposal: Dwelling and Garage  Address: Site 280m SW of 7 Ballymoghane Lane, Magherafelt.</p>	

Decision:  
Decision Date: 17.09.2010

Ref ID: H/2005/0164/O  
Proposal: Site of dwelling and garage  
Address: Site 280m south west of 7 Ballymoghane Lane, Magherafelt  
Decision:  
Decision Date: 05.07.2005

Ref ID: H/2008/0599/F  
Proposal: Restrospective application for retention of existing Race Track for Off Road Buggies on land approximately 250m West of 7a Ballymoughan Lane, Magherafelt  
Address: Lands Approx 250m West of 7A Ballymoughan Lane, Magherafelt,  
Decision:  
Decision Date: 20.06.2011

Ref ID: H/2006/0017/O  
Proposal: Site of dwelling & garage  
Address: 160m East of 7 Ballymoghane Lane, Magherafelt  
Decision:  
Decision Date:

Ref ID: H/2011/0491/F  
Proposal: Proposed amended access to new dwelling approximately 160m West of 7 Ballymoughan Lane, Magherafelt from that approved under H/2009/0446/F.  
Address: 160m W of no. 7 Ballymoughan Lane, Magherafelt,  
Decision:  
Decision Date: 12.03.2012

Ref ID: H/2009/0446/F  
Proposal: Proposed new dwelling and detached garage/domestic store  
Address: 160m East of 7 Ballymoughan Lane, Magherafelt  
Decision:  
Decision Date: 29.12.2009

Ref ID: H/2003/1246/O  
Proposal: Site of dwelling and garage.  
Address: 280m West of 11 Ballymoghane Lane, Magherafelt.  
Decision:  
Decision Date: 13.01.2005

Ref ID: H/1994/0456  
Proposal: SITE OF BUNGALOW



Address: BALLYMOUGHAN LANE MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/1997/0198

Proposal: BUNGALOW & GARAGE

Address: BALLYMOUGHAN LANE MAGHERAFELT

Decision:

Decision Date:

Ref ID: LA09/2015/0579/F

Proposal: Dwelling and Garage

Address: Site 280m SW of 7 Ballymoghane Lane, Magherafelt,

Decision: PR

Decision Date: 27.01.2016

#### Summary of Consultee Responses

#### Drawing Numbers and Title

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

#### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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

### Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1519/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed erection of detached farm dwelling	<b>Location:</b> Lands approx. 200m North of 65 Killyliss Road Dungannon
<b>Referral Route:</b>  Recommendation to refuse.	
<b>Recommendation: Refuse</b>	
<b>Applicant Name and Address:</b> Mr Magowan 65 Killyliss Road Dungannon	<b>Agent Name and Address:</b> NI Planning Permission Scottish Provident Building 7 Donegall Square West Belfast BT1 6JH
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	DAERA - Omagh	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

### Characteristics of the Site and Area

The site is located within the open countryside between Granville and Eglish approx. 1 mile south and 1 mile north of each respectively, and outside any settlement designated by the Dungannon and South Tyrone Area Plan 2010.

The site sits adjacent and south of the Killybracken Road, east of its junction with the Killyliss Road. It comprises a large (approx. 0.86 hectares), relatively square-shaped agricultural roadside field bound by a mix of mature vegetation. The northern boundary of the site adjacent

the Killybracken Road from where access to the site, is proposed to be taken is bound by a low roadside hedge. The northeast/eastern boundary of the site is defined, in part, by a mix of mature trees and vegetation running along a small sheugh/watercourse. The remainder of this boundary and other remaining boundaries of the site are defined by relatively low hedgerow vegetation.

The land within the site is relatively flat to its northern half, however rises away to the south of the site which is quite elevated.

As outlined above, a small sheugh runs a short distance along the north eastern boundary of the site. Flood Maps NI show flooding along this watercourse. As such, a dwelling on the site would have to be pulled away from this watercourse to avoid any potential flooding.

Views of the proposed dwelling on this site will be from the Killyliss Road to the west over a short distance on the approach to and when passing the Killybracken Road Junction. And when travelling both east and west along the Killybracken Roadside frontage of the site. Views of the site from the Killybracken road on the western approach are limited due to topography and the existing vegetation along the north eastern / eastern boundary of the site, which screen it.

The area surrounding the site is rural in nature comprising undulating landscaping interspersed by single dwellings and farm groups. There are 2 dwellings located just to the north of the site at the other side of the Killybracken road and a poultry house located approx. 150 metres to the west of the site, accessed off the Killyliss Road via lane.

The applicants dwelling and farm buildings are located further along the Killyliss Road to the south of the site.

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

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

Regional Development Strategy 2030

Strategic Planning Policy Statement for Northern Ireland (SPPS) - Planning for Sustainable Development

Dungannon and South Tyrone Area Plan 2010

Planning Policy Statement (PPS) 2: Natural Heritage

Planning Policy Statement (PPS) 3 Access, Movement and Parking

- PPS 3 (Clarification): Access, Movement and Parking
- Development Control Advice Note (DCAN) 15 Vehicular Access Standards

PPS 15 (Revised) Planning and Flood Risk

PPS 21 Sustainable Development in the Countryside

### **Planning History on Site**

M/2000/1360/O - Outline application for a dwelling - Granted 24.03.2001

M/2001/0711/RM - Reserved Matters application for a dwelling - Withdrawn 27.07.2001

### **Representations**

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

### **Assessment**

The Strategic Planning Policy Statement for Northern Ireland (SPPS) states a transitional period will operate until such times as a Plan Strategy for the whole of the council area has been adopted. During this transitional period authorities will apply existing policy contained within

retained policy documents together with the SPPS. Any conflict between the SPPS and any retained policy must be resolved in favour of the provisions of the SPPS.

As this site is located outside any settlement designated in the Dungannon and South Tyrone Area Plan, the policy context is provided by Planning Policy Statement 21 Sustainable Development in the Countryside (PPS21). The SPPS retains PPS21.

Policy CTY1 of PPS 21 states "There are a range of types of development which in principle are considered to be acceptable in the countryside and that will contribute to the aim of sustainable development". These include dwellings on farms in accordance with Policy CTY 10 of PPS 21. The SPPS does not supersede the provisions of CTY10.

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 applicants have 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. 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.

There is no evidence to indicate that any dwellings or development opportunities out-with settlement limits have been sold off from the Mr MaGowan's farm holding within the last 10 years from the date of the application or since PPS 21 was introduced on 25th November 2008. 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.

Mr MaGowans dwelling / farm holding is located approx. 200 metres further along the Killyliss Road to the south of the site and as such a dwelling on the proposed site will not visually link or cluster with his farm group and as such Criterion (3) of CTY 10 has not been met.

The applicant / agent has submitted information stating that he cannot site beside the principle farm complex due to potential flooding and poor topography coupled with a bad access. Having viewed the strategic flood maps NI it would appear that not all the land surrounding the principle farm group is subject to flooding. I am therefore of the opinion that there are alternative sites available to him which would comply with this criteria of the policy.

It is also my opinion that poor topography and a bad access are not justifiable health and safety reasons to merit an alternative site not visually linked (or sited to cluster) the established group of buildings on the farm.

In addition to the above policy CTY 10 of PPS21 states 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.

CTY 13 outlines permission will only be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design and CTY14 where it does not cause a detrimental change to, or further erode the rural character of an area.

A dwelling on this site will need to be sited away from the watercourse running along the north eastern boundary of the site to avoid any potential flooding. This means moving it away from the line of substantial mature vegetation along this watercourse, and onto higher ground within the site which is bound only by low hedgerow vegetation. It is my opinion that sited as such, the dwelling would not integrate onto the site and into the landscape in accordance with CTY 13 of PPS 21 in that it would be a prominent feature in the landscape due to both its elevated siting and the sites lack of sufficient long established natural boundaries to provide a suitable degree of enclosure.

As a dwelling on this site would be an unduly prominent feature in the landscape, it is also my opinion that it would be contrary to Policy CTY14 of PPS 21 in that it would cause a detrimental change to the rural character of this area of countryside.

#### **Additional Consideration**

Transport NI were consulted on this application and have no objection to the proposal subject to standard conditions and informatives.

#### **Case Officer Recommendation – Refusal**

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 or that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

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 and is unable to provide a suitable degree of enclosure for the building to visually integrate into the surrounding landscape.

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

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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#### **Summary of Recommendation:**

That planning permission be refused subject to the following reasons

#### **Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm (and access to the dwelling is not obtained from an existing lane. Nor has it been

demonstrated that health and safety reasons exist to justify an alternative site not visually linked (or sited to cluster) with an established group of buildings on the farm.

2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed site lacks long established natural boundaries and is unable to provide a suitable degree of enclosure for the building to visually integrate into the surrounding landscape.
3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the dwelling would, if permitted, be unduly prominent in the landscape and would therefore result 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	
Committee Meeting Date:	Item Number:
Application ID: LA09/2018/1542/F	Target Date:
<b>Proposal:</b> Works to include widening existing forest park entrance to allow for two way traffic access with controlled access bollards, erection of pay stations in car park and introduction of passing bays along internal access road.	<b>Location:</b> Davagh Forest Park Davagh Road Omagh
<b>Referral Route:</b>  This application is being presented to Committee as the application is being recommended for approval and the applicant is Mid Ulster District Council.	
<b>Recommendation:</b>	<b>APPROVAL</b>
<b>Applicant Name and Address:</b> Mid Ulster District Council 76-78 Burn Road Cookstown	<b>Agent Name and Address:</b> Teague and Sally 3A Killycolp Road Cookstown BT80 9AD
<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

## Representations:

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

## Summary of Issues

No representations have been received in respect of this application.

## Description of Proposal

Works to include widening existing forest park entrance to allow for two way traffic access with controlled access bollards, erection of pay stations in car park and introduction of passing bays along internal access road.

## Characteristics of the site and area

The site is located at Davagh Forest Park on the Davagh Road and comprises the main entrance to the park and part of the car parks and access roads into the park.

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

The main policy consideration is the assessment of this proposal are:-

Cookstown Area Plan 2010: The site is located within an; area of Outstanding Natural Beauty; a countryside policy area; a tourism opportunity zone; an area of Significant Archaeological Interest and an area of constraint on Mineral development.

Planning Policy Statement 3 – Access, Movement and Parking

Policy AMP 2 – Access to Public Roads

Planning permission will only be granted for a development proposal involving direct access, or the intensification of the use of an existing access, onto a public road where:

- a) such access will not prejudice road safety or significantly inconvenience the flow of traffic; and
- b) the proposal does not conflict with Policy AMP 3 Access to Protected Routes.

The acceptability of access arrangements, including the number of access points onto the public road, will be assessed against the Departments published guidance. Consideration will also be given to the following factors:

- the nature and scale of the development;
- the character of existing development;
- the contribution of the proposal to the creation of a quality environment, including the potential for urban / village regeneration and environmental improvement;
- the location and number of existing accesses; and
- the standard of the existing road network together with the speed and volume of traffic using the adjacent public road and any expected increase.

#### Policy AMP 7 – Car parking and servicing arrangements

Development proposals will be required to provide adequate provision for car parking and appropriate servicing arrangements. The precise amount of car parking will be determined according to the specific characteristics of the development and its location having regard to the Department's published standards or any reduction provided for in an area of parking restraint designated in a development plan. Proposals should not prejudice road safety or significantly inconvenience the flow of traffic.

Beyond areas of parking restraint identified in a development plan, a reduced level of car parking provision may be acceptable in the following circumstances:

- where, through a Transport Assessment, it forms part of a package of measures to promote alternative transport modes; or
- where the development is in a highly accessible location well served by public transport; or
- where the development would benefit from spare capacity available in nearby public car parks or adjacent on street car parking; or
- where shared car parking is a viable option; or
- where the exercise of flexibility would assist in the conservation of the built or natural heritage, would aid rural regeneration, facilitate a better quality of development or the beneficial re-use of an existing building.

Proposals involving car parking in excess of the Department's published standards or which exceed a reduction provided for in a development plan will only be permitted in exceptional circumstances.

In assessing car parking provision the Department will require that a proportion of the spaces to be provided are reserved for people with disabilities in accordance with best practice. Where a

reduced level of car parking provision is applied or accepted, this will not normally apply to the number of reserved spaces to be provided.

In the previous application for the 'Proposed observatory visitor hub, 5 no glamping pods and amenities compound with associated external works' there were no changes to be made to the existing site entrance and internal road layout leading to the Davagh Observatory. This application proposes to close the existing entrance and to widen the existing exit to allow for 2-way traffic which will be controlled by automated barriers. The internal road has also had passing bays incorporated to allow for ease of traffic flow and passing.

DfI Roads advised that they have no objections in principle subject to the 2.4m x 60m sightlines being maintained in perpetuity. However, prior to planning approval the proposed access road angle with the public road should be reviewed as it could be difficult for left in / right out movements due to the skew of the entrance. It was suggested that 'as the access road is being widened it would not be that more onerous to realign the access road so that it is nearer perpendicular with the public road'.

This issues was raised with the agent who provided an additional drawing of the access details to demonstrate that a vehicle either entering the site from the Draperstown direction would not involve crossing to the opposite side of the public road.

Therefore as DfI Roads have not raised any objection to the proposal it is my opinion that the application should be approved subject to the following conditions:-

Neighbour Notification Checked

Yes

Summary of Recommendation:

Approve subject to the conditions listed below:-

#### Conditions

1. The proposed works must be begun not later than the expiration of 5 years beginning with the date on which this consent is granted as required by Section 94 of the Planning Act (Northern Ireland) 2011.

Reason: Time Limit.

2. The vehicular access, including visibility splays of 2.4m x 60m in both directions, shall be provided prior to the commencement of any works or other development hereby permitted and shall be maintained in perpetuity. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the levels of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

Signature(s)

Date:

ANNEX	
Date Valid	20th November 2018
Date First Advertised	6th December 2018
Date Last Advertised	
Details of Neighbour Notification (all addresses) The Owner/Occupier,	
Date of Last Neighbour Notification	
Date of EIA Determination	
ES Requested	Yes /No
Planning History  Ref ID: LA09/2018/1275/NMC Proposal: Re-arranged internal layout (to visitor hub) with external colonnade area built in with glazing to provide additional internal space Address: Davagh Forest Park, Davagh Road, Omagh, Decision: WITHDR Decision Date: 15.11.2018  Ref ID: LA09/2016/1605/F Proposal: Proposed observatory visitor hub, 5 no glamping pods and amenities compound with associated external works (Ecological Off-Setting Report) Address: Davagh Forest Park, Davagh Road, Omagh, Decision: PG Decision Date: 15.12.2017  Ref ID: LA09/2018/1181/NMC Proposal: Rearranged internal layout with external colonnade area built in with glazing to provide additional internal space Address: Davagh Forest Park, Davagh Road, Omagh, Decision: CG Decision Date:  Ref ID: LA09/2018/1011/DC	

Proposal: Discharge of Condition 11 within planning permission: LA09/2016/1605/F.  
 Address: Davagh Forest Park, Davagh Road, Omagh.,  
 Decision:  
 Decision Date:

Ref ID: LA09/2018/1542/F

Proposal: Works to include widening existing forest park entrance to allow for two way traffic access with controlled access bollards, erection of pay stations in car park and introduction of passing bays along internal access road.

Address: Davagh Forest Park, Davagh Road, Omagh,

Decision:

Decision Date:

Ref ID: I/2013/0294/PREAPP

Proposal: Proposed recreational building with parking, including camping pods

Address: Davagh Forest Project, Cookstown,

Decision: EOL

Decision Date:

Ref ID: LA09/2015/0803/PAD

Proposal: Provision and management of outdoor recreation at the site including walking and mountain biking

Address: Davagh Forest Park, Co Tyrone,

Decision:

Decision Date:

Summary of Consultee Responses

Drawing Numbers and Title

Drawing No. 05  
Type: Roads Details  
Status: Submitted

Drawing No. 03  
Type: Proposed Plans  
Status: Submitted

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

Drawing No. 02  
Type: Site Layout or Block Plan  
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

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1554/F	<b>Target Date:</b> 07.03.2019
<b>Proposal:</b> Change of house type from approval H/2007/1142/F from storey and a half dwelling to chalet bungalow on the same footprint with detached garage and stable block remaining as on H/2007/1142/F (replacement dwelling)	<b>Location:</b> 64 Glenshane Road Knockloughrim Magherafelt
<b>Referral Route:</b>  This application is being presented to committee as the agents spouse is employed by Mid Ulster Council Planning department (administration department)	
<b>Recommendation:</b> Approval	
<b>Applicant Name and Address:</b> Mr M Kane 5 Toberhead Road Magherafelt BT45 8QZ	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TN
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

Case Officer Report		
<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>		
<p>No third party representations were received during the assessment of this application. All material considerations have been addressed within the determination below.</p>		
<b>Characteristics of the Site and Area</b>		
<p>The application site is located at 64 Glenshane road, Knockloughrim, Magherafelt and is located outside the designated settlement limits as identified in the Magherafelt Area Plan, 2015. The foundations of the dwelling approved under H/2007/1142/F are in situ. There are several old agricultural sheds surrounding the site and an old dwelling No 64 which was the dwelling to be replaced under the original application H/2007/1142F, adjacent to where the footings are located. There is an existing orchard to the north west of the site and there is mature trees and hedgerows around the boundary off the site.</p>		
<b>Description of Proposal</b>		
<p>This application seeks planning permission for a change of house type from planning approval H/2007/1142/F for storey and a half dwelling to chalet bungalow on the same footprint with detached garage and stable block remaining as on the above referenced application.</p>		
<b>Planning Assessment of Policy and Other Material Considerations</b>		



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

Strategic Planning Policy Statement (SPPS)

Magherafelt Area Plan, 2015

Planning Policy Statement (PPS) 3 – Access, Movement and Parking

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

#### Planning History

H/2007/1142/F –Proposed replacement dwelling , detached domestic garage and stable block, 64 Glenshane Road, Knockloughrim, Magherafelt, for Mr M O’Kane, Permission granted 17.09.2008

#### Representations

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

#### Assessment

The principal of development has been established on the site through the approval of the earlier granted scheme. It was noted during a visit of the site that works had commenced on site and foundations were in place.

The applicant has provide a site location plan and details of the context of the proposal, which sets out the proposed location of the dwelling in relation to the surrounding area and neighbouring properties. The proposal is sited on the foundations of the previous approval and has the same footprint, however it is slightly lower in ridge height as this application is for a Chalet bungalow. The scale and massing of the proposal is modest and the general layout of the proposal is considered to be respectful of the appearance of the surrounding built environment. Initially, I thought that the window design was not in keeping with the surrounding rural character of the area, however, after visiting the site, given its location and the level of screening afforded to the site it was agreed with senior planners at group, that these were acceptable, given the lack of public interest in the site. The stone work to be used shall be locally quarried natural basalt stone only. The changes proposed under this application are therefore considered to be acceptable for the area in which it is sited.

#### Access

It was not deemed necessary to consult with Transport Ni on this application as there are no proposed amendments to the access which was approved under H/2007/1142/F, which was for a replacement dwelling and used an existing access. Therefore, I am content that there is an adequate means of access to and from the site and that the proposal complies with the requirements of PPS 3.

#### Conclusion

I am content that the proposal satisfies the requirements of the relevant policies and therefore should be recommended for approval.

#### **Neighbour Notification Checked**

Yes

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

Approve, subject to the conditions below.

Conditions/Reasons for Refusal:

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

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

2. The proposed stonework shall be locally quarried natural basalt stone only.

Reason: In the interest of visual amenity and to maintain the rural character of the area.

3.The existing natural screenings and vegetation shall be retained and the planting scheme carried out in accordance with the approved plan No 01, date stamped 22.11.2018, during the first available planting season after the occupation of the building for its permitted use.

Reason: To ensure the development integrates into the countryside

4.If any retained tree is removed, uprooted or destroyed or dies within 3 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 those trees shall be of such size and species and shall be planted at such time as may be specified by the Department.

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

5.If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of the

Department, 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 Department gives its written consent to any variation.

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

6.The dwelling hereby permitted shall not be occupied until the existing buildings, coloured green on the approved plan, drawing no 01, date stamped 22.11.2018 is demolished, all rubble and foundations removed and the site restored in accordance with the details on the approved plans.

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

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.Consent of the Department of Environment Water Pollution Control Branch in relation to the discharge of effluent from the septic tank in accordance with the provision of the Water

(Northern Ireland) Order 1999 may apply. Application under the Water Act should be made to the Environmental Health (Rivers) Inspector.

4. 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 which is deposited on the road as a result of the development, must be removed immediately by the operator/contractor.

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

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

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

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

Surface water from the roof of the development hereby approved does not flow onto the public road, including the footway.

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

7. Foul water sewer not available. The use of a septic tank, (on the basis of one for each dwelling) is subject to the necessary written consent being obtained from the Environment and Heritage Service and the approval of the local District Council Environmental Health section.

Where approval to the use of a septic tank disposal system is granted and the applicant wishes the Water service to provide a periodic desludging service the applicant must complete the necessary 'Form of Agreement' and adhere to the construction requirements contained therein. Contact Water Service's Customer Services Unit to obtain a 'Form of Agreement' form, or telephone Waterline on 0845 7440088.

8. Surface water sewer not available. Surface water must not be taken to the foul sewer. Where it is proposed to discharge surface water to a river, stream or watercourse prior written consent for such discharge must be obtained from the Department of Agriculture's River Agency.

9. To ensure compliance with the Water and Sewerage Services (Northern Ireland) Order 1973, as amended 1993, consultation with Water Service is essential at design stage with regard to the following matters:

- (a) water supply requirements; and
- (b) septic tank emptying.

Contact Water Service's Customer Services Unit or telephone Waterline on 0845 7440088.

10. The applicant must provide an all weather hard standing area with a 3.5m wide access capable of supporting the weight of the sludge tanker within 30m of the septic tank.

11. 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:**

ANNEX	
<b>Date Valid</b>	22nd November 2018
<b>Date First Advertised</b>	6th December 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 62 Glenshane Road, Knockloughrim, Magherafelt, BT45 8RE	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>	
<b>Summary of Consultee Responses</b>	
<b>Drawing Numbers and Title</b>	

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 05

Type: Garage Plans

Status: Submitted

Drawing No. 01

Type: Site Location Plan

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No.

Type:

Status: Submitted

Drawing No. 04

Type: Proposed Plans

Status: Submitted

Drawing No. 03

Type: Proposed Elevations

Status: Submitted

Drawing No. 02

Type: Proposed Floor Plans  
Status: Submitted

Drawing No.  
Type:  
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> LA09/2018/1557/RM	<b>Target Date:</b>
<b>Proposal:</b> Construction of chalet bungalow & detached garage	<b>Location:</b> 40m North of 64 Glenshane Road Knockloughrim Magherafelt
<b>Referral Route: The agent's spouse is a member of planning staff.</b>	
<b>Recommendation:</b>	Approve
<b>Applicant Name and Address:</b> Mr & Mrs S Kane 5 Well Lane Culnady Maghera BT46 5TL	<b>Agent Name and Address:</b> Gordon Arbuthnot 6 Culnady Road Upperlands Maghera BT46 5TN
<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: None

### Characteristics of the Site and Area

The site is located approximately 1.5 miles southeast of Knockcloghrim in open countryside in accordance with the Magherafelt Area Plan 2015. The site is situated 40m north of No 64 Glenshane Road and is set back approximately 170m from the public road. The proposed site is a cut-out portion of a small agricultural field, identified as field No3/B on the submitted farm maps. Access to the site is via an existing hardcore laneway. The site is bound by mature vegetation along the southern and western boundaries of the site, the remaining boundaries are undefined.



**Description of Proposal**

The proposal is a reserved matters application for a single storey dwelling with loft conversion and detached garage.

The proposed dwelling has a 14m frontage with a gable depth of 9m and has a ridge height of 5.9m above finished floor level. A side projection and small porch are also proposed. The chimney is expressed on the ridge, the wall finishes are roughcast render and locally sourced basalt stone to porch and the roof finish is dark grey/black interlocking roof tiles.

The detached garage measures 7m x 6.3m and has a ridge height of 5.8m above ground level and the finishes will be as above.

**Planning Assessment of Policy and Other Material Considerations****Relevant Site History:**

LA09/2017/0828/O - Construction of chalet bungalow and detached garage. Approved 11th June 2018

**Representations:**

2 neighbour's notification letters were sent to the occupiers of Nos 62 & 64 Glenshane Road, Knockcloughrim

No letter of representation have been received

**Development Plan and Key Policy Consideration:**

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherafelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

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

Until a Plan Strategy for the whole of the Council Area has been adopted planning applications will be assessed against existing policy (other than PPS 1, 5 & 9) together with the SPPS.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking. Policy AMP 3 -Access to Protected Routes (Consequential Revision) Other Protected Routes – Outside Settlement Limits states that planning permission will only be granted for a development proposal involving access onto this category of Protected Route for a Farm Dwelling – where a farm dwelling would meet the criteria set out in Policy CTY 10 of PPS 21 and access cannot reasonably be obtained from an adjacent minor road. Where this cannot be achieved proposals will be required to make use of an existing vehicular access onto the Protected Route.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. This is supplemented by Building on Tradition: A Sustainable Design Guide for the Northern Ireland Countryside.

The principle of development has been established on the proposal site. The site was initially approved under CTY 10 – A Dwelling on the Farm. The main considerations in the processing of this application are adhering to the outline conditions, siting, design, finishes and sewage disposal.

Under CTY13 a new building will be unacceptable where the design of the building is inappropriate for the site and its locality. In terms of design the proposed dwelling has become fairly standardised in rural areas and does consist of elements which are considered traditional (i.e. vertically emphasised windows, good ratio solid to void, linear form). The finishes include blue/black or dark grey tiles/slates and grey stone chip dash and natural stonewalls are generally acceptable and will not appear incongruous in the location. The orientation of the proposed dwelling is considered acceptable and is in keeping with the existing character of the area.

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

I am satisfied that the proposal is adequately sited and designed to avoid a significant adverse impact on third party neighbour amenity. The proposal will make use of an existing access that is onto a protected route, which complies with Policy AMP 3 - Access to Protected Routes (Consequential Revision) Other Protected Routes.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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**Summary of Recommendation: That planning permission be approved subject to the following conditions.**

#### **Conditions**

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

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

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

2. The vehicular access, including visibility splays of 2.4m x 160m in both directions, shall be in place, in accordance with drawing No. 01 which was received on 22nd November 2018, prior to the commencement of any other works or other development hereby permitted.

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

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250 mm above the level of the adjoining

carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

4. The existing natural screening along the laneway and the eastern boundary of the site shall be permanently retained at not less than 2 metres and trees allowed to grow on except where it is required to provide sight lines. No trees or vegetation shall be lopped, topped or removed without the prior consent in writing of the Council, unless necessary to prevent danger to the public in which case a full explanation shall be given to the Council in writing prior to the commencement of any works

Reason: In the interests of visual amenity

5. During the first available planting season after the commencement of the development hereby approved, a new hawthorn hedge, trees and shrubs shall be planted on the inside of a new post and wire fence marked A – B & B – C on the approved drawing No 01 which was received on 9th July 2018.

Reason: In the interests of visual amenity.

6. The proposed stonework shall be locally quarried natural basalt stone only.

Reason: In the interest of visual amenity and to maintain the rural character of the area.

7. Notwithstanding the provisions of The Planning (General Permitted Development) Order (Northern Ireland) 2015, or any Order revoking and re-enacting that Order, no walls, gate pillars, fences or other structures, other than the development permitted shall be erected along the front boundary of the site without the written consent of the Council.

Reason: To preserve the amenity of 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 is advised that under Article 11 of the Roads (NI) Order 1993, the Department for Infrastructure is empowered to take measures to recover any reasonably incurred expenses in consequence of any damage caused to the public road/footway as a result of extraordinary traffic generated by the proposed development.

5. 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.

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

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

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

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

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	22nd November 2018
<b>Date First Advertised</b>	6th December 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 62 Glenshane Road Knockcloghrim Londonderry The Owner/Occupier, 64 Glenshane Road Knockcloghrim Londonderry	
<b>Date of Last Neighbour Notification</b>	7th December 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/1554/F Proposal: Change of house type from approval H/2007/1142/F from storey and a half dwelling to chalet bungalow on the same footprint with detached garage and stable block remaining as on H/2007/1142/F (replacement dwelling) Address: 64 Glenshane Road, Knockloughrim, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2018/1557/RM Proposal: Construction of chalet bungalow & detached garage Address: 40m North of 64 Glenshane Road, Knockloughrim, Magherafelt, Decision: Decision Date:  Ref ID: LA09/2017/0828/O Proposal: Construction of chalet bungalow and detached garage Address: 40m North of 64 Glenshane Road, Knockloughrim, Maghera, Decision: PG Decision Date: 13.06.2018  Ref ID: H/1978/0093 Proposal: BUNGALOW AND GARAGE Address: TOBERHEAD, CASTLEDAWSON Decision: Decision Date:  Ref ID: H/2004/0914/F	

Proposal: Extension to existing dwelling to include first floor accommodation and raising of roof height.

Address: 62 Glenshane Road, Toberhead, Knockloughrim.

Decision:

Decision Date: 19.10.2004

Ref ID: H/2007/1142/F

Proposal: Proposed replacement dwelling, detached domestic garage & stable block

Address: 64 Glenshane Road, Knockloughrim, Magherafelt

Decision:

Decision Date: 19.09.2008

### **Summary of Consultee Responses**

### **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: Garage 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> LA09/2016/0690/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed retrospective application for beauty salon and car sales area with associated office and valet facility	<b>Location:</b> Adjacent to 3 Killymuck Road, Upperlands, Maghera
<b>Applicant Name and Address:</b> Mr B McCloskey, 96 Drumagarner Road, Kilrea, BT51 5TE	<b>Agent name and Address:</b> DM Kearney Design, 2a Coleraine Road, Maghera, BT46 5BN
<b>Summary of Issues:</b> Principle of farm diversification proposal and access concerns.	
<b>Summary of Consultee Responses:</b> No objection.	
<b>Characteristics of the Site and Area:</b>  The application is for a retrospective application for a beauty salon and car sales area with associated office and valet facility, the site is located to the rear of No 3 Killymuck Road and is within the rural countryside.  No 3 Killymuck Road is a modest detached bungalow on the roadside. There is a large concrete yard to the rear of the dwelling, which has several detached buildings. The beauty salon is located within the western corner of the red line and directly behind a neighbouring dwelling at No 2 Glasshill Crescent. There is a building for a valeting business with car sales located in the Northeast corner of the site. There is a large building within the yard however, this is outside the red line of the application site and is subject to enforcement at present.  To the rear of the site is a cattle handling pen and some agricultural land within the applicants ownership.	

The site itself is surrounded by mature vegetation and there are no critical views from any neighbouring public viewpoints.

### **Description of Proposal**

Full application for 'proposed retrospective application for a beauty salon and car sales area with associated office and valet facility to the rear of 3 Killymuck Road, Upperlands, Maghera'.

### **Deferred Consideration:**

This application was before the Planning Committee in April 2017 with a recommendation to refuse. Members agreed to defer the application for an office meeting that took place 13 April 2017. Following the office meeting, I carried out a site visit and the agent submitted further information for consideration of this planning application.

The applicant was listed as the farm owner and since the office meeting confirmation has been received that his two daughters are now listed as part owners of the farm business and confirmation of this was received 14 August 2017.

Policy CTY 11 of PPS 21 states that planning permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm. There are 4 criteria to be applied:

- a. The farm or forestry business is currently active and established;

DAERA have confirmed the business is active and established.

- b. In terms of character and scale it is appropriate to its location;

There is a much larger shed within the red line of the site constructed without planning permission. The Enforcement team investigated the shed and ascertained the building and its use are immune based on the evidence submitted by the applicant. At the time of my site visit Brian McCloskey showed me the inside of the larger shed, which is storing raw materials for the manufacture of furniture that takes place elsewhere. The building for the car sales office and valet facility is site to the east of the larger shed though it is considerably smaller in both footprint and height. The building for the beauty salon is to the west of the larger shed and it too is considerably smaller in both footprint and height. The beauty salon sits immediately behind the boundary with No 2 Glasshill Crescent and its residents have submitted a letter of objection I will detail later in this report. The beauty salon is not visible from any vantage points and is visible once you have arrived at the application site. The car sales office is visible from the Drumagarner Road but its visual impact is not as significant as the larger storage shed.

- c. It will not have an adverse impact on the natural or built heritage;

There are no features of natural or built heritage adversely impacted.



- d. It will not result in detrimental impact on the amenity of nearby residential dwellings including potential problems arising from noise, smell and pollution.

There is a residential dwelling at No 2 Glasshill Crescent, which is immediately to the south of the building used for the purposes of a beauty salon. There is an objection from the residents of No 2 Glasshill Crescent. They have raised concerns with increased traffic movements and noise from the traffic including horns, forklifts and reversing alarms. They have also stated there is noise from the beauty salon particularly when the windows are open. There is a concern held from the light pollution from floodlights. In response, there is a very tall leylandi hedge between the buildings and the dwelling at No 2 Glasshill Crescent, which is at least 4.5m tall. Although the car parking spaces are not marked on the ground of the application site, the agent has shown 5 car parking spaces alongside the leylandi hedge behind No 2 Glasshill Crescent. 10 car spaces are marked on drawing no 01/1 for the car sales office and valet building. The website for "ucar" states that viewing is by appointment only.

There is a distance of 14m between the rear of the dwelling and the side elevation of the beauty salon. Although a beauty salon is not a typical use in the rural area I do not feel it is a use that itself will cause any significant harm on residential amenity by way of noise, smell or pollution. Given there is a very tall hedge in between the yard of the application site and the objector's dwelling this is in the control of the applicant and can be conditioned to be retained. The car sales building is c.60m away from the objector's dwelling, again with the tall hedge in between which will restrict any views from the objector's dwelling into the site.

Given the applicant and his daughters are listed on the Farm Business I consider the application can be treated as a farm diversification scheme. Although there is an existing larger shed within the red line of the application site, it is for storage for the applicant's kitchen manufacturing business. There are other areas of farmland belonging to the applicant within both MUDC area and Causeway Coast and Glens area. However, there does not appear to be any other sheds on these lands, only dwellings approved under the farm business number of members of the applicant's family. Where a new building is justified, Policy CTY 11 states it should be satisfactorily integrated with an existing group of buildings. As I have detailed there is an existing and much larger shed within the yard, together with a dwelling at No 3 Killymuck Road owner by the applicant. I do not consider the integration of these buildings to be a concern.

Following my consideration of the application against the criteria of Policy CTY 11 I recommend an approval of this application subject to the conditions listed below.

#### **Conditions:**

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

Reason: This is a retrospective application.

2. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no illuminated signage shall be erected at the site without express consent by Mid Ulster District Council.

Reasons: In the interest of visual amenity in the rural area.

3. Notwithstanding the provisions of the Planning (General Permitted Development) Order (NI) 2015, or any Order revoking and re-enacting that Order, no additional floodlighting shall be erected at the premises. The existing floodlighting shall be switched off before 8pm between Monday and Friday, 5pm on a Saturday and it shall not be in use on a Sunday.

Reason: In the interests of residential amenity.

4. No business activity shall take place from the site outside the hours of 8.00 am to 6.00 pm on Mondays to Fridays and 8.00 am to 2.00 pm on Saturdays or at any times on Sundays, bank holidays or public holidays.

Reason: To control the nature of the retailing use of the site at his countryside location in the interests of residential amenity.

5. The cars for sale shall be displayed in strict accordance with the layout shown on drawing 01/1 date stamped 6 December 2018 with no more than 10 cars displayed for sale at the site.

Reason: To control the nature of the retailing use of the site at his countryside location in the interests of residential amenity.

6. The hair and beauty salon unit shall be used only for that purpose, and for no other purpose in Class A1 of the Schedule to The Planning (Use Classes) Order (Northern Ireland) 2015, or in any provision equivalent to that Class in any statutory instrument revoking and replacing that Order without the written consent of the Council.

Reason: To control the nature of the retailing use of the site at this countryside location.

7. The hair and beauty salon together with the car sales use hereby permitted shall be operated solely in conjunction with the management of the agricultural holding of the applicant.

Reason: To control the nature of the use of the site at this countryside location.

8. The vehicular access, including visibility splays and any forward sight distance, shall be provided in accordance with drawing no 01/1 bearing the date stamp 6 December 2018 within one month of the development hereby retrospectively permitted. The area within the visibility splays shall be cleared to provide a level

surface no higher than 250mm above the level of the adjoining carriageway and such splays shall be retained and kept clear thereafter.

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

9. The parking facilities detailed in drawing no 01/1 bearing the date stamp 6 December 2018 shall be open for use during all hours of business. 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 during the approved business hours.

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

10. The existing mature hedgerow along the southern boundary of the site as indicated on the approved plan 01/1, date stamped 6 December 2018 shall be retained at a minimum height of 4 metres and trees within the hedgerow at 4 metres, and shall be allowed to grow on or as agreed in writing with the Council

Reason: To ensure the maintenance of screening to the site.

**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> LA09/2016/0690/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed retrospective application for beauty salon and car sales area with associated office and valet facility	<b>Location:</b> Adjacent to 3 Killymuck Road Upperlands Maghera
<b>Referral Route:</b> Refusal recommended & objection received.	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mr B McCloskey 96 Drumagarner Road Kilrea BT51 5TE	<b>Agent Name and Address:</b> DM Kearney Design 2a Coleraine Road Maghera BT46 5BN
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

Case Officer Report		
Site Location Plan		
		
Consultations:		
Consultation Type	Consultee	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
<b>Summary of Issues</b> Refusal recommended – contrary to CTY 1 PPS21, CTY 11 & CTY14 of PPS21, PPS4	
<b>Characteristics of the Site and Area</b> <p>The application is for a retrospective application for a beauty salon and car sales area with associated office and valet facility, the site is located to the rear of No 3 Killymuck Road and is within the rural countryside.</p> <p>No 3 Killymuck Road is a modest detached bungalow on the roadside, there is a large concrete yard to the rear of the dwelling which has several detached buildings, one for the beauty salon located within the western corner of the red line and directly behind a neighbouring dwelling at No 2 Glasshill Crescent and one for valeting business with car sales located in the North east corner of the site. There is a large building within the yard however this is outside the red line of the application site and is subject to enforcement at present.</p> <p>To the rear of the site is a cattle handling pen and agricultural land within the applicant's ownership.</p> <p>The site itself is surrounded by mature vegetation and as such there are no critical views from any neighbouring public viewpoints.</p>	
<b>Description of Proposal</b> <p>Full application for 'proposed retrospective application for a beauty salon and car sales area with associated office and valet facility to the rear of 3 Killymuck Road, Upperlands, Maghera'.</p>	
<b>Planning Assessment of Policy and Other Material Considerations</b> <p>I have assessed this proposal under the following:</p> <p>SPSS          Magherafelt Area Plan 2015          Planning Policy Statement 1 - General Principles          Planning Policy Statement 21 - Sustainable development in the countryside          Planning Policy Statement 4 - Planning and Economic development</p> <p>This proposal site is within the rural remainder as defined in the Magherafelt Area Plan 2015. The businesses are operating at present, this is a retrospective application, the car business is advertised as 'U Car' and the beauty salon as 'Bellarose', small advertisements are in place at the entrance to the sight.</p>	

Site History - There are two current enforcement cases within the red line of this application site - LA09/2016/0030/CA \_ LA09/2015/0193/CA

Consultations: - NI Roads were asked to comment and responded on 05.09.2016 requesting additional info as the applicant has failed to demonstrate that a safe access can be provided onto the Killymuck Road. This has not been sought from the applicant/agent.

Environmental Health were asked to comment and responded on 09.06.2016 with no objections

NI Water were asked to comment and responded on 25.05.2016 with no objections

DARDni were asked to comment and responded on 25.05.2016 stating that the farm business has been established for over 5 years and is active.

In line with legislation this proposal was advertised in several local press publications during May 2016.

Neighbours: Owners/Occupiers of Nos 1, 2 \_ 3 Glasshill Crescent, No 2 \_ No 4 Killymuck Road and No 203 Drumagarner Road were all notified of the proposal on 24.05.2016. One objection has been received from the owner/occupier of No 2 Glasshill Crescent, the main points raised are:

- increased levels of traffic, in the form of cars and goods vehicles causing concerns for safety
- noise nuisance from both businesses and related traffic
- light pollution caused by tall floodlights
- commercial activity in a rural location

The car valeting building is approximately 4metres in height and with a floor space of approx. 73.81m2. The finish/design of this building is green metal like a prefabricated garage.

The beauty salon is approximately 4metres in height and with a floor space of approx. 56.64m2. The finish and design of this building is one of the appearance of a wooden cabin.

A vehicle sales business is considered as Sui Generis as stated within the Planning (Use Classes) Order (NI) 2015.

Under CTY 1 of PPS21 planning permission will be granted for a farm diversification proposal where it has been demonstrated that it is to be run in conjunction with the agricultural operations on the farm, and 4 points of criteria need to be adhered to. The farm business should be currently active and established - following consultation with DARD they have confirmed that the farm business owner has an active and established farm business for over 6 years. In terms of character and scale the buildings are appropriate for their location and do not have any adverse impact on natural or built heritage. One neighbouring property has submitted an objection to this application stating that the business premises are causing problems arising from noise, smell and pollution, I would agree that these uses would produce these nuisances and are not suitable for this rural location.

In addition the applicant has not demonstrated why existing buildings within the farm holding could not be re-used or adapted rather than 2 completely new buildings a point which is at odds to this policy. This point should be addressed before it could be judged if the new buildings to be an exception, however CTY 11 does state that 'the countryside is not spoilt by the unfettered development of urban uses', beauty salons and vehicle sales and valeting are an urban use and not considered a rural use and as such do not comply with CTY 11 of PPS21.

Under CTY 13 of PPS21 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. This particular proposal is easier to assess as the buildings are already on site. The site has a mature vegetative boundary on the southern side and existing buildings and/or dwellings



on the northern and eastern boundaries as such there are no critical views of the site from any neighbouring or surrounding public vantage points, nor is the site a prominent feature in the surrounding landscape.

Under CTY 14 planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. The buildings being used for the two businesses in this proposal are not in my opinion prominent in the landscape however I do consider them to erode the rural character of the area as the urban use is not suited to this rural location.

The two business are located within a large yard area not affiliated with the dwelling on site and so could not be defined as home working, they are both independent businesses and the business use is not secondary to the main use of the dwelling. The both uses would attract more than occasional visitors to the site.

Under PPS4 development on land outside a village or smaller rural settlement will be permitted where it is demonstrated that there is no suitable site within the settlement, in this case this has not been demonstrated. In addition the proposal should benefit the local economy or contribute to community regeneration, however this proposal does not do either. Finally to be acceptable the development should be clearly associated with the settlement, this proposal site is not associated with any neighbouring settlements at all and so does not comply with this policy. The objector has argued that the businesses do harm his amenities, although Environmental Health do not have any objections to the proposal.

Recommendation: Refusal

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal – contrary to CTY 1, 11, 14 of PPS21 & PPS4

**Reasons for Refusal:**

1. To be used in addition to reasons for refusal for Policies CTY13, CTY14, CTY8 where there are no overriding reasons why the development is essential.

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 CTY11 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the applicant has not demonstrated that it is to be run in conjunction with the agricultural operations on the farm and it does not involve the re-use or adaptation of existing farm buildings and it has not been demonstrated that there are no other buildings available to accommodate the proposal.



3. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that it would result in a detrimental change to (further erode) the rural character of the countryside.

4. The proposal is contrary to the Department's Planning Policy Statement 4, Industrial Development, in that the development would, if permitted, be incompatible with the character of the surrounding area.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	13th May 2016
<b>Date First Advertised</b>	25th May 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 1 Glasshill Crescent Killygullib Glebe Kilrea The Owner/Occupier, 2 Glasshill Crescent Killygullib Glebe Kilrea The Owner/Occupier, 2 Killymuck Road, Upperlands K Kyle 2, Glasshill Crescent, Kilrea, Londonderry, Northern Ireland, BT51 5UR The Owner/Occupier, 203 Drumagarner Road Killygullib Glebe Kilrea The Owner/Occupier, 3 Glasshill Crescent, Killymuck Road The Owner/Occupier, 4 Killymuck Road, Upperlands	
<b>Date of Last Neighbour Notification</b>	24th May 2016
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/2002/0507/F Proposal: Dwelling and garage Address: Adjacent to No 3 Killymuck Road, Kilrea Decision: Decision Date: 16.09.2002  Ref ID: H/2001/0618/O Proposal: Site For Dwelling Address: Adjacent To No.3 Killymuck Road, Kilrea Decision: Decision Date: 23.09.2001  Ref ID: H/2002/0505/F Proposal: Dwelling and Garage	

Address: Killymuck Road, Kilrea, (Adjacent to No 3)  
 Decision:  
 Decision Date: 18.08.2002

Ref ID: H/2001/0617/O  
 Proposal: Site For Dwelling  
 Address: Adjacent To No. 3 Killymuck Road, Kilrea  
 Decision:  
 Decision Date: 23.09.2001

Ref ID: H/2013/0033/O  
 Proposal: Proposed site of infill dwelling and garage for residential purposes  
 Address: Approx 120m South West of 201 Drumagarner Road, Kilrea,  
 Decision: WITHDR  
 Decision Date: 11.09.2013

Ref ID: LA09/2016/0690/F  
 Proposal: Proposed retrospective application for beauty salon and car sales area with associated office and valet facility  
 Address: Adjacent to 3 Killymuck Road, Upperlands, Maghera,  
 Decision:  
 Decision Date:

#### Summary of Consultee Responses

#### Drawing Numbers and Title

Drawing No. 02  
 Type: Farm Boundary Map  
 Status: Submitted

Drawing No. 01  
 Type: Site & Detailed Drawings  
 Status: Approved

#### Notification to Department (if relevant)

Date of Notification to Department:  
 Response of Department:



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Melvin Bowman	
<b>Application ID:</b> LA09/2016/1122/F	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed new farm dwelling	<b>Location:</b> 40 m North East of 48 Waterfoot Road Magherafelt
<b>Applicant Name and Address:</b> Mr Henry J Walls 46 Waterfoot Road Magherafelt	<b>Agent name and Address:</b> CMI Planners UnitC5 80-82 Rainey Street Magherafelt BT45 5AJ
<b>Summary of Issues:</b> application can now be recommended for approval having being amended to a dwelling on a farm case.	
<b>Summary of Consultee Responses:</b> No objections.	
<b>Characteristics of the Site and Area:</b>  <p>The proposal site is located adjacent to No 48 Waterfoot Road and abuts Moyola River. The site has a redundant single storey building on site which has complete stone walls, a corrugated tin roof and 3 barn style doors on one elevation, while the rear elevation was unaccessible due to overgrown vegetation, there is evidence of windows in the building but no chimney openings or other residential style elements visible on the building. Within the remainder of the site it is a grassed agricultural field fenced off.</p> <p>Immediately SW of the proposal site is a dwelling and attached outbuilding and NW of the proposal site is a residential property and several out buildings.</p>	

**Description of Proposal**

Full application for a Farm Dwelling.

**Deferred Consideration:**

This application previously came before planning committee as a replacement dwelling with a recommendation to refuse permission given that the building to be replaced was not of replacement category.

Following a deferral the applicant was invited to amend the application to a dwelling on a farm, given that an earlier approval on the site, allowed at appeal granted permission for same. This has now expired.

On the 8<sup>th</sup> Nov 2018 the agent submitted a PIC form and maps allowing consultation with DAERA. Their response dated the 28 Nov 2018 indicates that the Business ID has existed for the required 6 year period and that claims have been made for the years 2015-2018. I am therefore content that the first requirement of Policy CTY10 is met.

In relation to siting, the site sits beside a group of buildings which appear to be related to the farm lands and are certainly owned by the applicant. This in my view satisfies the siting requirements of CTY10 in relation to visual linkage and grouping. The site offers an acceptable degree of integration also and meets all other planning and environmental criteria.

The historical concerns in relation to flood risk appear to have been clarified with Rivers Agency confirming the site is not at risk.

There are no objections.

Given the above circumstances I am of the opinion that permission be granted subject to the conditions below.

**Conditions/Reasons for Refusal:****Conditions**

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

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

2. The vehicular access, including visibility splays of 2.0 x 60m to the West and 2.0 x 33m to the South East, and Forward sight distance of 33m to the rear shall be provided in accordance with drawing No.02/2 prior to the commencement of any other works or other development hereby permitted.

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

3. The area within the visibility splays and any forward sight line shall be cleared to provide a level surface no higher than 250mm above the level of the adjoining carriageway before the development hereby permitted is commenced and such splays shall be retained and kept clear thereafter.

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

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

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

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

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

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 its written consent to any variation.

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

### **Informatives**

1. Notwithstanding the terms and conditions of the Mid Ulster District Council's approval set out above, you are required under Article 71 - 83 inclusive of the Roads (NI) Order 1993 to be in possession of the Department for Infrastructure's consent before any work is commenced which involves making or altering any opening to any boundary adjacent to the public road, verge, or footway or any part of said road, verge or footway bounding the site. The consent is available on personal application to TransportNI Section Engineer whose address is Molesworth Plaza, Molesworth Street, Cookstown.

A monetary deposit will be required to cover works on the public road.

2. 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.

3. 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.

4. 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.
  5. 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.
  6. Where a Designated watercourse flows through or adjacent to a development site, it is considered essential that a working strip of minimum width 5m is left along the bank in order to facilitate future maintenance of the watercourse by the Rivers Agency. Actual requirement should be determined in consultation with the Agency.
  7. 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. Any new or existing septic tank unit being a minimum of 15metres from the proposed development or any other habitable dwelling/building such as an office or such dwelling/building in the course of construction or the subject of a planning approval.  
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.  
Planning Service receiving confirmation from Northern Ireland Water that a mains water supply is available and that it is feasible for the proposed development to be connected to same. Where mains water supply is not available, the applicant/agent is strongly advised to contact this department before any detailed plans are prepared. (The District Council cannot approve plans for housing development unless a satisfactory water supply is available).
  8. The applicant is advised to contact NIW through its Customer Relations Centre on 08457 440088 or [waterline@niwater.com](mailto:waterline@niwater.com), upon receipt of this consultation to discuss any areas of concern. Application forms and guidance are also available via these means.
- If during the course of developing the site the developer uncovers a pipe not previously evident, NIW should be notified immediately in order that arrangements may be made for investigation and direction in respect of any necessary measures required to deal with the pipe. Notify NIW Customer Relations Centre on 08458 770002.
- Details of existing water and sewerage services may be obtained by submitting a Records Request application RR1-A257/A258 available at [www.niwater.com/servicesfordevelopers.asp](http://www.niwater.com/servicesfordevelopers.asp)
- All services within the development should be laid underground.  
None of the dwellings hereby permitted shall be occupied until the (sewage disposal/drainage) works have been completed in accordance with the submitted plans.

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

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

9. 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.

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

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

**Date 22/1/2019**





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District Council

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b>	<b>Item Number:</b>
<b>Application ID:</b> LA09/2016/1122/F	<b>Target Date:</b>
<b>Proposal:</b> Proposed replacement dwelling	<b>Location:</b> 40 m North East of 48 Waterfoot Road Magherafelt
<b>Referral Route: Refusal – contrary to CTY 1 &amp; 3 of PPS21</b>	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Mr Henry J Walls 46 Waterfoot Road Magherafelt	<b>Agent Name and Address:</b> CMI Planners UnitC5 80-82 Rainey Street Magherafelt BT45 5AJ
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

## Case Officer Report

### Site Location Plan



#### Consultations:

Consultation Type	Consultee	Response
Statutory	Transportni	10/02/2017
Non statutory	Environmental Health	31/08/2016
Non statutory	NI Water	31/08/2016



<b>Statutory</b>	<b>Rivers Agency</b>	12/09/2016
<b>Representations:</b>		
Letters of Support	1	
Letters of Objection	None Received	
Number of Support Petitions and signatures	No Petitions Received	
Number of Petitions of Objection and signatures	No Petitions Received	
<b>Summary of Issues</b>		
Refusal recommended as proposal contrary to CTY 1 & 3 of PPS21		
<b>Characteristics of the Site and Area</b>		
<p>The proposal site is located adjacent to No 48 Waterfoot Road and abuts Moyola River. The site has a redundant single storey building on site which has complete stone walls, a corrugated tin roof and 3 barn style doors on one elevation, while the rear elevation was inaccessible due to overgrown vegetation, there are no windows or evidence of windows in the building and no chimney openings or other residential style elements visible on the building. Within the remainder of the site it is a grassed agricultural field fenced off. Immediately SW of the proposal site is a dwelling and attached outbuilding and NW of the proposal site is a residential property and several out buildings. When I accessed the site there was no evidence</p>		
<b>Description of Proposal</b>		
Full application for a replacement dwelling.		
<b>Planning Assessment of Policy and Other Material Considerations</b>		
<p>I have assessed this proposal under the following:</p> <p>SPSS  Magherafelt Area Plan 2015  Planning Policy Statement 1 - General Principles  Planning Policy Statement 21 - Sustainable development in the countryside.</p> <p>Site History - H/2009/0150/O - Approved at appeal for dwelling generally sited within the area of the existing building. This approval was granted 30.11.2011 thus this approval has expired.</p> <p>Neighbours notified: - Owners/occupiers of Nos 47, 48, 49-51 _ 50 Waterfoot Road were notified of this proposal on 01.09.2016. A letter of support from the owner/occupier of No 50 Waterfoot Road, Magherafelt dated 12.09.2016 was received.</p> <p>In line with legislation this proposal was advertised in the local press during August 2016.</p> <p>Consultees: - Environmental Health were asked to comment and responded on 28.09.16 with no objections to the proposal subject to advice.</p>		

NI Water were asked to comment and responded on 05.09.16 with no objections subject to advice.

TransportNI were asked to comment as the proposal includes the construction of a new access to a public road, they responded on 10.02.17 with no objections subject to conditions and advice.

Rivers Agency were consulted on this proposal as the proposal site was shown on the councils systems to be within a floodplain, however Rivers Agency were able to confirm that the proposal site was outside the designation floodplain but they did comment that due to its close proximity they felt conditions and advice should be given.

This proposal is for a replacement dwelling and as such the relevant policy is CTY 3 of PPS21. Within this policy it 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. Buildings design 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.

In this particular case the existing dwelling is a single storey stone building with a corrugated tin roof. There are 3 barn style doors on the front elevation and the rear elevation is heavily overgrown. Part of the building has been demolished leaving some wall stead's behind. When inspecting the inside of the building there were no indications that the building had ever been used as a dwelling but rather only ever for storage. As such it is my opinion that this proposal fails to meet the requirements of CTY 3.

This policy also goes on to explain that favourable consideration will however be given to the replacement of a redundant non-residential building with a single building, where the redevelopment proposed would bring significant environmental benefits and provided the building is not listed or otherwise makes an important contribution to the heritage, appearance or character of the locality.

It is my professional opinion that this is a redundant non-residential building however I am not of the opinion that its replacement would bring significant environmental benefits and as such the proposal still does not comply with CTY 3 requirements.

In addition proposals for a replacement dwelling should be sited within the established curtilage of the existing building unless the established curtilage is so restricted. In this particular case there is no identifiable curtilage existing. Immediately adjacent on the eastern side of the building is a small grassed paddock style area used for grazing sheep. The proposed dwelling is sited immediately adjacent to the existing building.

The proposed dwelling is of a modest and traditional scale and design and following responses from consultees it is clear that services can be achieved to the site

Under the previous approval the proposal site was described to be within a flood plain and DOE were criticised for not having consulted with Rivers Agency or requested a flood risk assessment. However in this instance Rivers Agency were consulted and confirmed that the proposal site is actually outside the flood zone and as such they have no objections to the proposal, thus a flood risk assessment is not required.

Proposals of development within the countryside also have to comply with CTY 13 of PPS 21, whereby it states that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and is of an appropriate design. The proposed dwelling would not be a prominent feature in the landscape due to the surrounding landscape and existing development. It is my professional opinion that this proposal meets the requirements of CTY 13.

Finally this proposal should be considered under CTY 14 of PPS21. This policy 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. Although I do not consider



the proposal to be acceptable under the replacement criteria the proposal would respect the traditional pattern of settlement already in existence and as such adheres to this criteria.

In conclusion having considered all of the above it is my opinion that this proposal does not meet the criteria of CTY 3 of PPS21 in that the existing building does not meet the essential characteristics of a dwelling nor would its replacement provide significant environmental benefits and as such a refusal is recommended.

Following discussions with Dr Boomer he asked that I check historical valuation maps for evidence that the building identified was a dwelling. From this it was clear that a building has been in this vicinity however not exactly on the same footprint and it is not evident that the building was ever a dwelling but rather an agricultural building, as such my recommendation for refusal would still stand.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal – Contrary to CTY 1 & 3 of PPS21

**Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY3 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the building has been designed and used for agricultural purposes. In addition the redevelopment proposed would not bring significant environmental benefits.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	12th August 2016
<b>Date First Advertised</b>	25th August 2016
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification (all addresses)</b> The Owner/Occupier, 47 Waterfoot Road Ballymaguigan Magherafelt The Owner/Occupier, 48 Waterfoot Road Ballymaguigan Magherafelt The Owner/Occupier, 49-51 Waterfoot Road Ballymaguigan The Owner/Occupier, 50 Waterfoot Road Ballymaguigan Magherafelt Alice McGlone 50, Waterfoot Road, Magherafelt, Londonderry, Northern Ireland, BT45 6LQ	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2016/1122/F Proposal: Proposed replacement dwelling Address: 40 m North East of 48 Waterfoot Road, Magherafelt, Decision: Decision Date:  Ref ID: H/2009/0150/O Proposal: Proposed site of replacement dwelling and garage Address: 40m North East of no.48 Waterfoot Road, Magherafelt Decision: Decision Date: 17.02.2011  Ref ID: H/1991/0408 Proposal: ALTERATIONS AND ADDITIONS TO DWELLING Address: 50 WATERFOOT ROAD BALLYMAGUIGAN Decision: Decision Date:	

Ref ID: H/2012/0228/F

Proposal: Single Rear Storey Kitchen and Dining Area Extension

Address: 50 Waterfoot Road, Ballymaguigan,

Decision: PG

Decision Date: 20.08.2012

### Summary of Consultee Responses

Environmental Health were asked to comment and responded on 28.09.16 with no objections to the proposal subject to advice.

NI Water were asked to comment and responded on 05.09.16 with no objections subject to advice.

TransportNI were asked to comment as the proposal includes the construction of a new access to a public road, they responded on 10.02.17 with no objections subject to conditions and advice.

Rivers Agency were consulted on this proposal as the proposal site was shown on the councils systems to be within a floodplain, however Rivers Agency were able to confirm that the proposal site was outside the designation floodplain but they did comment that due to its close proximity they felt conditions and advice should be given.

### Drawing Numbers and Title

Drawing No. 01

Type: Site Location Plan

Status: Approved

Drawing No. 02

Type: Site Layout or Block Plan

Status: Submitted

Drawing No. 02/2

Type: Site Layout or Block Plan

Status: Approved

Drawing No. 03

Type: Floor Plans

Status: Approved

Drawing No. 04

Type: Proposed Elevations

Status: Approved

### Notification to Department (if relevant)

Date of Notification to Department:

Response of Department:



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District Council

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Malachy McCrystal	
<b>Application ID:</b> LA09/2017/1055/O	<b>Target Date:</b> <add date>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Approx 30m South of 77 Gulladuff Hill Moyagall Gulladuff
<b>Applicant Name and Address:</b> Joe Hurley 83 Gulladuff Hill Gulladuff Magherafelt	<b>Agent name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
<b>Summary of Issues:</b>  No objections have been received in respect of this application.	
<b>Summary of Consultee Responses:</b>  All consultees responded positively.	
<b>Characteristics of the Site and Area:</b>  The proposal site is located on the roadside of Gulladuff Hill. The proposed access is already in place serving a pre existing greyhound racing track (Field of Dreams Schooling _ Rearing). Immediately adjacent to the proposal site on the NW boundary is a single detached dwelling (No 77) this property does not have frontage to the roadside but rather is set back, accessed via a laneway and with a small agricultural paddock in front of it. Further north is a detached agricultural building on the roadside, these buildings are clearly separated and not intervisible. The proposal site is bounded on the NW boundary by mature trees and vegetation, the NE boundary is defined by a post and wire fence and hedging while the eastern and southern boundaries are undefined. The land levels within the site rises very steeply from the southerly to northerly side. Immediately adjacent of the NE boundary is a detached dwelling.	



**Description of Proposal**

Outline application for dwelling and garage

**Deferred Consideration:**

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

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.
2. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed dwelling is not visually linked or sited to cluster with an established group of buildings on the farm and therefore would not visually integrate into the surrounding landscape.

Following a discussion at that meeting it was agreed that the application would be deferred to facilitate an office meeting with the Planning Manager.

The office meeting was held on 10th May 2018 and was attended by  
 Dr. Boomer – MUDC Planning  
 M McCrystal– MUDC Planning  
 C Cassidy – Agent

The issues relating to the recommendation were discussed and it was agreed that MMC would inspect the site to assess the visual impact of a dwelling located adjacent to the existing dwelling which sits on top of a hill. The proposed site located beside existing dwelling at the end of the laneway may be a better option in terms of having a lesser visual impact.

CC – advised that the proposed site utilises an existing farm laneway leading to and is visually linked to the existing dog track and associated building. He stated that it would be acceptable on the applicants part to have a condition imposed restricting a dwelling to the bottom part of the site

MMC to inspect the site and assess the visual impact compared to the alternative as outlined above.

The site was inspected on 15th August 2018. The visibility splays at the access are presently 2.4m x 15 to the left hand side and 2.4m x 20 to the right hand side when exiting the site. There are critical views of the proposed site from the front of no.77 which is 60m to the north of the proposed access. From this point there is no clustering or visual linkage with the existing buildings on the farm holding. The only views of the existing buildings on the farm holding are from mid way between the access to no.77 and the access to the proposed site for a distance of around 20m before these buildings are screened from view

again by boundary hedging. They are then visible again for around another 10m before being completely screened by the mature copse of trees to the south of the site. However, a dwelling sited on the lower part of the application site would also be reasonably well screened as it would only be visible on approach from the north for a short distance from around the entrance to no.77.

A dwelling sited beside the existing buildings on the ridge would either be visible sitting on the crest of the hill top and may appear as contributing to ribbon development or would otherwise require a dwelling to be set to the rear ie. in fields 8 or 11. This would result in a dwelling which could potentially be sited beside farm buildings or having a detrimental impact on the existing dwellings.

A dwelling on the proposed site would have the benefit of being located much lower in the landscape and benefiting from being screened by the mature vegetation and with a backcloth of rising ground would achieve a more desirable setting in terms of integration. Overall, it is my opinion that the proposed site, while not meeting the test of CTY 10 with regards to being sited to cluster or being visually linked with the existing buildings on a farm, Committee may wish to regard this as an exception to the policy due to greater environmental benefits

#### Conclusion

Given the above situation, it is my opinion that if Committee wish to consider the proposed site as an exception to policy then the proposed development could be approved subject to the following conditions:-

#### Conditions

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

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

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

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

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

3. The proposed dwelling shall be sited in the area shaded green on the approved plan 01/1 date stamped 8th November 2017.

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.'

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

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

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

Reason: In the interest of visual amenity.

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

Reason: To ensure the dwelling integrates into the landform.

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

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

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

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

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

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

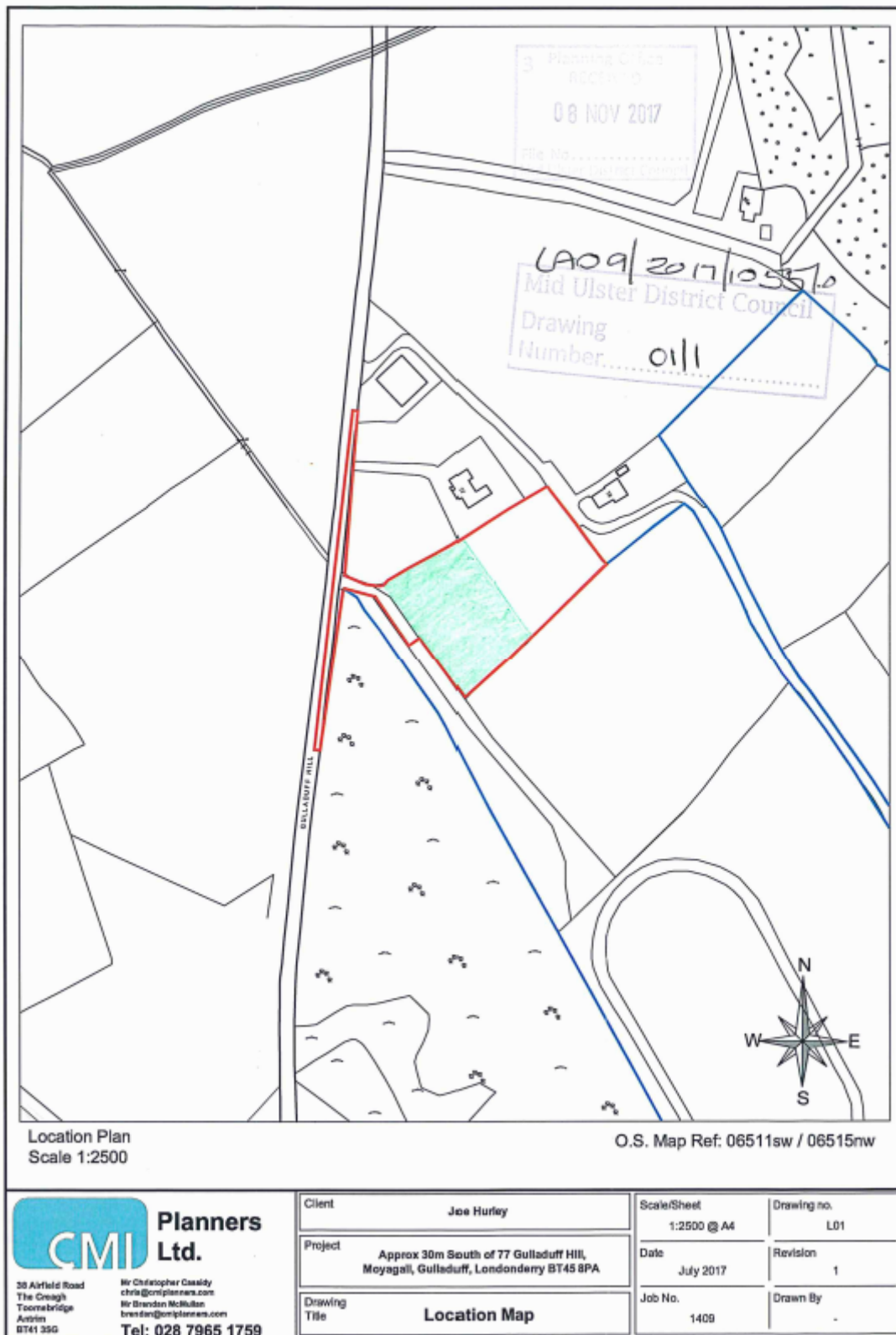
10. If within a period of 5 years from the date of the planting of any tree, shrub or hedge, that tree, shrub or hedge is removed, uprooted or destroyed or dies, or becomes, in the opinion of Mid Ulster District Council, seriously damaged or defective, another tree, shrub or hedge of the same species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

the same place, unless Mid Ulster District Council gives its written consent to any variation.

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

**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> LA09/2017/1055/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed dwelling and garage	<b>Location:</b> Approx 30m South of 77 Gulladuff Hill Moyagall Gulladuff
<b>Referral Route:</b> Contrary to CTY 10 & 13 of PPS21	
<b>Recommendation: Refusal</b>	
<b>Applicant Name and Address:</b> Joe Hurley 83 Gulladuff Hill Gulladuff Magherafelt	<b>Agent Name and Address:</b> CMI Planners Ltd 38 Airfield Road Toomebridge BT41 3SG
<b>Executive Summary:</b>	
<b>Signature(s):</b> Lorraine Moon	

For committee decision  
  
10/11/18



## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	Environmental Health Mid Ulster Council	Substantive Response Received
Statutory	DFI Roads - Enniskillen Office	Content
Statutory	DFI Roads - Enniskillen Office	Advice
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**  
 Contrary to CTY 10 & 13 of PPS21 in that the proposed site is not visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.

**Characteristics of the Site and Area**

The proposal site is located on the roadside of Gulladuff Hill. The proposed access is already in place serving a pre existing greyhound racing track (Field of Dreams Schooling \_ Rearing). Immediately adjacent to the proposal site on the NW boundary is a single detached dwelling (No 77) this property does not have frontage to the roadside but rather is set back, accessed via a laneway and with a small agricultural paddock in front of it. Further north is a detached agricultural building on the roadside, these buildings are clearly separated and not intervisible. The proposal site is bounded on the NW boundary by mature trees and vegetation, the NE boundary is defined by a post and wire fence and hedging while the eastern and southern boundaries are undefined. The land levels within the site rises very steeply from the southerly to northerly side. Immediately adjacent to the NE boundary is a detached dwelling.

**Description of Proposal**

Outline application for dwelling \_ garage

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

I have assessed this proposal under the following:

SPSS  
 Magherafelt Area Plan 2015  
 Planning Policy Statement 1 - General Principles  
 Planning Policy Statement 21 - Sustainable development in the countryside  
 Planning Policy Statement 3 - Access, Movement and Parking

Consultees: - NI Water were asked to comment and responded on 11.08.2017 with no objections subject to advice.  
 Environmental Health were asked to comment and responded on 16.08.2017 with no objections subject to advice.  
 Transportni were asked to comment and responded on 21.08.2017 requesting amendments/additional information, this was requested and amendments submitted, Transportni were reconsulted and they responded on 03.01.2018 with no objections subject to conditions and advice.  
 DAERA were asked to comment and responded on 12.10.2017 stating that the farm business identified in the submitted P1C form has been in existence for more than 6 years however they have not claimed Single Farm payments in the last 6 years.



Neighbours: - Owners/Occupiers of Nos 77 & 79 Gulladuff Hill, Gulladuff were notified of this proposal on 09.8.2017, no objections have been received to date.

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

In line with PPS21 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 types of development is a dwelling on a farm in accordance with Policy CTY 10. All proposals for development in the countryside must be sited and design to integrate sympathetically with their surroundings and to meet other planning and environmental considerations including those for drainage, access and road safety.

According to CTY 10 planning permission will be granted for a dwelling house on a farm when certain criteria can all be met. In this case the submission of the P1C form and consultation with DAERA was able to ascertain that the farm has been established for over 6 years however they have not claimed single farm payments in the last 6 years.

Following a GIS database search of the submitted farm land under the applicant's ownership it was able to be ascertained that no dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of this application.

As presented the proposed site is not visually linked or sited to cluster with an established group of buildings on the farm. The agent was asked why a siting between fields no 5 & 6 was not chosen which would be sited with the farm dwelling etc. In an email response dated 12.10.2017 Mr Cassidy (agent) stated that the existing access which serves No. 83 and the land in question cannot be upgraded to Road Service standards thus the area was discounted. The area required at this access on both sides is not owned by the applicant and the owners are not willing to provide an easement.

Having considered all of the submitted evidence and arguments from the agent I do feel that this particular proposal could be sited within farm land under the applicants ownership that's located adjacent to existing farm buildings and using part of the existing laneway and creating a new laneway for the remainder part through land owned by the applicant, all of which would adhere to the policy principles. The evidence submitted I do not feel is strong enough to count this proposal as an exception from policy.

In addition to adherence to the above policy this proposal should adhere to CTY 13 of PPS21 - Dwellings on Farms

In order to adhere to this planning permission will only be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

A new building will be unacceptable where:

- a) it is a prominent feature in the landscape - the proposed site would not be prominent in nature should an approval be given and sited to the southern portion of the site as the levels rise quite considerably within the site from a southerly to northerly direction.
- b) the site lacks long established natural boundaries or is unable to provide a suitable degree of enclosure for the building to integrate into the landscape - the proposal site is bounded on the northern side by mature vegetation however the NE and southern boundaries are either undefined or only defined by a post and wire fence and sparse vegetation, thus it is my professional opinion that it fails on this criteria.
- c) it relies primarily on the use of new landscaping for integration - new integration would be required for this proposal site should an approval be granted.
- d) ancillary works do not integrate with their surroundings
- e) the design of the building is inappropriate for the site and its locality - as this is an outline application no design has been proposed at this stage.
- f) it fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop



g) in the case of a proposed dwelling on a farm it is not visually linked or sited to cluster with an established group of buildings on a farm - the proposal site is not visually linked or sited to cluster with the established group of buildings on the farm and thus fails to adhere to this criteria. Despite additional information being submitted no sound justification has been demonstrated as to why a dwelling cannot be sited adjacent to the existing buildings on the farm holding.

Finally the proposal needs to be considered against the requirements of CTY 14 of PPS21 - Rural Character

CTY 14 states that planning permission will be granted for a building in the countryside where it does not cause a detrimental change to, or further erode the rural character of an area. However a new building will be unacceptable where:

- it is unduly prominent in the landscape - a dwelling located at the proposal site would not be unduly prominent in the landscape.
- it results in a suburban style build-up of development when viewed with existing and approved buildings - should an approval be granted on the proposal site there would not be a suburban style build-up of development.
- it does not respect the traditional pattern of settlement exhibited in that area - the traditional pattern in this area is that of farm dwellings and buildings and single detached properties.
- it creates or adds to a ribbon of development - this criteria does not apply for this proposal.
- the impact of ancillary works (with the exception of necessary visibility splays) would damage rural character - this would not be a concern for me on this particular proposal.

As such the proposal can adhere to the criteria of CTY 14.

Having considered all of the above information I do not consider this proposal to adhere to CTY 10 or CTY 13 of PPS21 and a recommendation of refusal is advised. Having considered the justification submitted with regards reasons why siting has not been adjacent or clustering with existing farm buildings I do not feel that these are enough to allow a deviation from policy and resitting should be considered.

Recommendation: Refusal - Contrary to CTY 10 & 13 as the proposed dwelling is not sited to visually link or sited to cluster with existing buildings on the farm.

#### Neighbour Notification Checked

Yes

#### Summary of Recommendation:

Refusal recommended as proposal contrary to CTY 10 & 13 of PPS21

#### Reasons for Refusal:

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case in that it has not been demonstrated that the proposed new building is visually linked (or sited to cluster) with an established group of buildings on the farm and access to the dwelling is not obtained from an existing lane.

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

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	4th August 2017
<b>Date First Advertised</b>	24th August 2017
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 77 Gulladuff Hill Moyagall Gulladuff The Owner/Occupier, 79 Gulladuff Hill Moyagall Gulladuff	
<b>Date of Last Neighbour Notification</b>	9th August 2017
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2017/1055/O Proposal: Proposed dwelling and garage Address: Approx 30m South of 77 Gulladuff Hill, Moyagall, Gulladuff, Decision: Decision Date:  Ref ID: H/2002/0696/F Proposal: Greyhound Schooling Track Address: Gulladuff Hill, Knockloughrim, 150 Metres West Of No.81 Decision: Decision Date: 18.09.2002  Ref ID: H/2005/0721/O Proposal: Site Of Dwelling & Garage Address: Approx. 320 NW of 81 Gulladuff Hill, Knockloughrim, Magherafelt Decision: Decision Date: 29.06.2007  Ref ID: H/2008/0615/O Proposal: Site of dwelling: detached chalet bungalow, approx 3000sqft. Address: Site adjacent to 81 Gulladuff Hill, Knockloughrim, Magherafelt. Decision: Decision Date: 22.09.2010	

Ref ID: H/1995/6115

Proposal: SITE OF HOUSING DEVELOPMENT GULLADUFF HILL KNOCKLOUGHRIM

Address: GULLADUFF HILL

Decision:

Decision Date:

Ref ID: H/1993/6124

Proposal: SITE OF 4 DWELLINGS GULLADUFF HILL GULLADUFF

Address: GULLADUFF HILL

Decision:

Decision Date:

Ref ID: H/1991/0285

Proposal: BUNGALOW AND GARAGE

Address: GULLADUFF HILL GULLADUFF

Decision:

Decision Date:

Ref ID: H/1990/0365

Proposal: SITE OF DWELLING AND GARAGE

Address: GULLADUFF HILL GULLADUFF

Decision:

Decision Date:

Ref ID: H/2009/0440/F

Proposal: Proposed single storey replacement dwelling 50m NW of 77 Gulladuff Hill, Gulladuff

Address: 50m North West of 77 Gulladuff Road, Gulladuff

Decision:

Decision Date: 23.12.2010

### 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> LA09/2018/0213/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and domestic garage for residential purposes	<b>Location:</b> 60m South East of 101 Bancran Road Draperstown
<b>Referral Route:</b>	
<b>Recommendation:</b>	REFUSE
<b>Applicant Name and Address:</b> Mr Oliver Bradley 101 Bancran Road Draperstown BT45 7DA	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

#### Characteristics of the Site and Area:

This is an outline application for a dwelling on a farm holding therefore details of the design and siting have not been submitted.

#### Characteristics of the site and area

The area is rural in character as defined in the Magherafelt Area Plan 2015, consisting of dwelling houses and farm buildings sited on road frontage sites in addition to some farm groupings being set back off the public road and accessed via existing farm laneways. The site is a small relatively flat throughout with access point onto public road situated approximately 60m South East of 101 Bancran Road, Draperstown.

The surrounding area's topography is generally steep with undulating landscapes with land rising steeply from the road towards the north and the site. The site is bounded by a mature thorn hedge along the southern boundary with a low thorn hedge along the western boundary also the western boundary separates an existing group of farm sheds and laneway. The northern and eastern boundaries are defined with new planting.

#### Description of Proposal

The applicant is seeking outline planning consent for a proposed dwelling and domestic garage for residential purposes located 60m South East of 101 Bancran Road, Draperstown. As this is an outline application the details of the design and siting have not been submitted.

#### Deferred Consideration:

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

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case as development opportunities have been sold off from the farm holding within 10 years of the date of the application.

Following a discussion at that meeting it was agreed that the application would be deferred for an office meeting to allow further consideration to be given to the particular circumstances of the case.

The deferred office meeting took place on 19th July 2018, which was attended by M Bowman and M McCrystal MUDC, J Diamond (Agent) and O Bradley (Applicant). At that meeting the following was discussed:-

The agent felt that the application was an exception to planning policy as although there were previous planning approvals granted on the farm holding and these were transferred out of the applicant's ownership, the applicant did not benefit financially from any of these



as the sites were repossessed by the bank and were sold in connection with the applicant's bankruptcy proceedings. The applicant retains ownership of fields 14, 17 & 45 together with the yard and associated buildings located between fields 12 and 17 as shown on the farm map.

The applicant stated that he is currently renting the dwelling which he formerly owned at no.101.

It was agreed that the Planning Department would give further consideration to the applicant's case and to refer the application back to Committee for decision.

#### Reconsideration

As this application is for a dwelling on a farm holding, it falls to be assessed under PPS 21 - Policy CTY 10 Dwellings on farms and in doing so it must meet all of the stated criteria. Whilst it is acknowledged that the farm business has been established for more than 6 years and is active, the proposal fails to meet the second criteria of the policy in that a number of development opportunities have been sold off from the farm since 25th November 2008. In total, four sites have been sold off from the farm holding since 14th April 2010 with the latest sell-off being on 30th March 2015. Therefore, the applicant cannot avail of another planning approval under Policy CTY 10 until 30th March 2025. The applicant has stated that the sites referred to above were sold-off, by the bank, due to his personal circumstances and that he did not gain personally from the sales. Therefore the application should be treated as an exception to this policy.

It should be noted however, that even though the bank may have sold off the sites, as stated by the applicant, these would have been regarded as assets owned by the applicant and therefore the proceeds would have been used to clear the applicant's debt. In that case the applicant did benefit from the sale of the development opportunities and consequently, the application is contrary to the key tests in Policy CTY 10 as development opportunities have been sold off from the farm holding within 10 years of the date of this application.

The proposed site is therefore considered to be contrary to policy CTY 10 for the reasons stated below and should be refused:-

#### 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 as development opportunities have been sold off from the farm holding within 10 years of the date of the application.

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> LA09/2018/0213/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed site for dwelling and domestic garage for residential purposes	<b>Location:</b> 60m South East of 101 Bancran Road Draperstown
<b>Referral Route:</b>  Refusal contrary to PPS 21 CTY 10	
<b>Recommendation:</b>	
<b>Applicant Name and Address:</b> Mr Oliver Bradley 101 Bancran Road Draperstown BT45 7DA	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

For comment  
dearer

  
19/6/18

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	NI Water - Single Units West - Planning Consultations	No Objection
Non Statutory	DAERA - Coleraine	Substantive Response Received

### Representations:

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

### Summary of Issues

All statutory bodies were consulted on this application. All other material considerations have been addressed within the determination of this application.

### Characteristics of the Site and Area

This is an outline application for a dwelling on a farm holding therefore details of the design and siting have not been submitted.

The area is rural in character as defined in the Magherafelt Area Plan 2015, consisting of dwelling houses and farm buildings sited on road frontage sites in addition to some farm groupings being set back off the public road and accessed via existing farm laneways. The site is a small relatively flat throughout with access point onto public road situated approximately 60m South East of 101 Bancran Road, Draperstown.



The surrounding area's topography is generally steep with undulating landscapes with land rising steeply from the road towards the north and the site. The site is bounded by a mature thorn hedge along the southern boundary with a low thorn hedge along the western boundary also the western boundary separates an existing group of farm sheds and laneway. The northern and eastern boundaries are defined with new planting.

### **Description of Proposal**

The applicant is seeking outline planning consent for a proposed dwelling and domestic garage for residential purposes located 60m South East of 101 Bancran Road, Draperstown.

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

Section 45 (1) of The Planning Act (Northern Ireland) 2011, states that, where an application is made for planning permission, the Council or, as the case may be, the Department, in dealing with the application, must have regard to the local development plan, so far as material to the application, and to any other material considerations...

The application property is located outside the settlement Development Limits of Magherafelt Area Plan 2015.

There are no other potential development constraints. The proposal raises no concerns in terms of flood risk, impact on listed built heritage or protected trees or vegetation (TPO) nor does it fall within Conservation, Townscape Designation. The proposal is under the 15.2m height threshold for consultation to Defence Estates relating to Met. Office -Radar. The key policy tests and relevant supplementary guidance are listed below.

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 retains policies within existing planning policy documents until such times as a Plan Strategy for the whole of the Council area has been adopted. It sets out transitional arrangements to be followed in the event of a conflict between the SPPS and retained policy. Any conflict between the SPPS and any policy retained under the transitional arrangements must be resolved in the favour of the provisions of the SPPS.

The Magherafelt Area Plan 2015 (MAP 2015) operates as the local development plan of the area the application site lies within. The site sits in a rural location outside any defined settlement limits. The CAP offers no specific policy or guidance in respect of this application. There is no conflict or change in policy direction between the provisions of the Strategic Planning Policy Statement for N Ireland (SPPS) and those of Planning Policy Statement 21 (PPS21) in respect of this application thereby the policy provisions of PPS 21 remain applicable.

### **Policy References:**

Magherafelt Area Plan 2015

Strategic Planning Policy Statement for Northern Ireland (SPPS, published 28 Sept 2015)

Magherafelt Area Plan 2015.

PPS 21 – Sustainable Development in the Countryside.

PPS 3 – Access, Movement and Parking.

Planning Policy Statement 21: Sustainable Development in the Countryside (PPS21) is a retained policy document under the 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 dwellings on farm under Policy CTY 10.

There is no conflict or change in policy direction between the provisions of the SPPS and those of PPS 21 in respect of the proposal. The policy provisions within PPS21 and PPS 3 remain applicable in terms of assessing the acceptability of the proposed application.

### Planning History

H/2005/0665/R M	Site for dwelling and garage	Permission granted 25/11/2005
H/2003/1193/O	Site for dwelling and garage	Permission granted 02/12/2004
H/2004/0252/O	Site for dwelling and garage	Appeal Dismissed
H/2002/0785/O	Site for dwelling and garage	Appeal upheld Permission granted 29/12/2003
LA09/2016/152 6/O	Proposed site for dwelling and domestic garage for residential purposes	Withdrawn 08/01/2018

### 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.

Statutory consultees.

NI Water – No objections

Transport NI – No objections standard condition

DAERA no objections

### Assessment

PPS 21, Policy CTY 1, establishes that planning permission will be granted for a dwelling house on a farm where it is in accordance with Policy CTY 10. This establishes that the principle of development, a dwelling on a farm, is acceptable, subject to meeting the policy criteria outlined in Policy CTY 10. Policy CTY 10 establishes that all of the following criteria must be met:

- (a) The farm business is currently active and has been established for at least 6 years.
- (b) No dwellings or development opportunities out-with settlement limits have been sold off from the farm holding within 10 years of the date of the application.
- (c) The new building is visually linked or sited to cluster with an established group of buildings on the farm and where practicable, access to the dwelling should be obtained from an existing lane. Exceptionally, consideration may be given to an alternative site elsewhere on the farm, provided there are no other sites available at another group of buildings on the farm or out-farm, and where there are either:



- Demonstrable health and safety reasons; or
- Verifiable plans to expand the farm business at the existing building group(s).

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

With respect to (a) the applicant has provided details surrounding the farm business ID. At the site visit I observed livestock and general farm machinery parked around the yard. The land holding, identified on the DAERA Farm maps provided with the application correlates with the farm business ID. DAERA also indicated the farm has claimed single farm payment and has been in existence for more than 6 years. I am content that the farm holding has been active and established for a period of at least 6 years.

With regard to (b) Land Registry searches indicate that several land sales with planning permission had occurred from February 2005, April 2010, January 2012 and March 2015 being the latest sell off.

CTY 10 specifies that 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.

In this case the applicant is prevented from applying for a farm dwelling under CTY 10 as the last sale recorded was March 2015. this in essence time bars the applicant from applying under the above policy until March 2025.

With respect to (c) the application site is visually linked to a group of farm buildings to the west.

### **CTY 13**

Policy CTY 13 stipulates that planning permission will be granted for a building in the countryside where it can be visually integrated into the surrounding landscape and it is of an appropriate design.

It has been established (above) that a dwelling which is sited to the west of the existing farm buildings on this farm holding would be acceptable. This site is deemed to be acceptable in principle, however it should be noted that only a dwelling which is in keeping with the existing dwelling in terms of size, scale and form will achieve an acceptable degree of integration here. The location of the proposed dwelling beside the existing farm buildings will reduce the level of impact associated with the proposal and aid the proposal in terms of integration. A siting restriction limiting the location of the proposed dwelling to the immediate west of the farm buildings on the site is considered necessary to ensure that the proposal is successfully integrated.

### **CTY 14**

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 environment is suitable for absorbing a dwelling. A ridge height condition not exceeding 6m above finish floor levels is representative, in terms of size and scale, of the existing farm dwelling and the other dwellings which surround the site in this rural area.

**Other points of note**

The application was initially advertised in the local press on w/c 26 February 2018 (publication date 01 March 2018). Two (2) neighbouring properties were notified on 23 February 2018, in accordance with the Development Management Practice Note 14 (April 2015)

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

Refusal

**Reasons for Refusal:**

1. The proposal is contrary to Policies CTY1 and CTY10 of Planning Policy Statement 21, Sustainable Development in the Countryside and does not merit being considered as an exceptional case as development opportunities have been sold off from the farm holding within 10 years of the date of the application.

**Signature(s)**

**Date:**

<b>ANNEX</b>	
<b>Date Valid</b>	16th February 2018
<b>Date First Advertised</b>	1st March 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 100 Bancran Road Draperstown Londonderry The Owner/Occupier, 107 Bancran Road Draperstown Londonderry	
<b>Date of Last Neighbour Notification</b>	23rd February 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: LA09/2018/0213/O Proposal: Proposed site for dwelling and domestic garage for residential purposes Address: 60m South East of 101 Bancran Road, Draperstown, Decision: Decision Date:  Ref ID: H/1999/0514 Proposal: SITE OF DWELLING AND GARAGE Address: BANCAN ROAD, ADJACENT TO 73 GLENGOMNA ROAD DRAPERSTOWN Decision: Decision Date: 14.06.2000  Ref ID: H/2004/0252/O Proposal: Site of new dwelling and garage. Address: 80m South of no.101 Bancran Road, Draperstown, Magherafelt. Decision: Decision Date:  Ref ID: H/2003/0658 Proposal: Dwelling and garage. Address: Adjacent to 73 Glengomna Road, Portglenone	



Decision: Decision Date: 03.07.2003
<b>Summary of Consultee Responses</b>
<b>Drawing Numbers and Title</b>
Drawing No. 01 (REV-1) Type: Site Location Plan Status: Submitted  Drawing No. Type: Status: Submitted  Drawing No. 02 Type: Housing Concept Plan Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:

## Neighbour Notification Report

	Reference Number	Neighbour Address	Date Neighbour Notified
1	LA09/2018/0213/	100 Bancran Road Draperstown Londonderry BT45 7DA	23/02/2018
2	LA09/2018/0213/	107 Bancran Road Draperstown Londonderry BT45 7DA	23/02/2018



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/0495/O	
<b>Proposal:</b> Proposed two storey dwelling and garage on a farm	<b>Location:</b> Site adjacent to 22 Carnaman Road Gulladuff
<b>Applicant Name and Address:</b> Liam Duggan 22 Carnaman Road Gulladuff Magherafelt	<b>Agent name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Summary of Issues:</b> Dwelling did not meet criteria for infill under CTY8, so a farm case was submitted and re-assessed under CTY10, which meets the criteria as per PPS21.	
<b>Characteristics of the Site and Area:</b>  The site is located approximately 1.5 mile north east of Gulladuff in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 20m north east of No 22 and consists of a cut out portion of a large linear agricultural field. Access to the site is via an existing laneway and the site has dual frontage on the laneway due to two 90 degree bends on the laneway. The north west boundary of the is defined by 2m high hawthorn hedge, the south east and south west boundaries are defined by a P/W fence and the north east boundary is undefined. The site rises in a north westerly direction in line with No 22 before sloping down towards the rear of the boundary of the site rear. The surrounding area is characterised by roadside dwellings and undulating landscape. The predominant land use is of an agricultural nature.	

**Description of Proposal**

The application seeks outline planning permission for a new dwelling

**Deferred Consideration:**

This application was deferred for an office meeting with Dr Boomer on 19 August 2018, for further consideration. Following a site visit it was agreed a historical laneway mentioned by the agent was no longer in place and therefore could not be considered as a potential road frontage of an infill assessment. The agent was then given the opportunity to submit a farm case, which was done, and so the application has been assessed as such.

**Policy CTY 10 - Dwellings on Farms**

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

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

DAERA have confirmed that the applicant has a Business ID that's been in existence for the required 6 year period. They have also confirmed that this business has submitted claims in the last 6 years. I am satisfied that the farm business can be considered currently active and established for the purposes of CTY 10. The land is kept in good agricultural condition and appeared regularly maintained.

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

A history check has been carried out. There are no recent planning approvals on this holding that could be considered as development opportunities to be sold off.

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

The site will be visually linked with the existing agricultural buildings and dwelling to the south.

**Policy CTY 13 - Integration and Design**

A dwelling should be sited on the lower part of the site to ensure integration and limited to an 8m ridge height, with planting to be provided on any undefined boundaries.

**Policy CTY 14 - Rural Character**

For the reasons noted above I am satisfied that a dwelling on this site would not be unduly prominent. It will not create or add to ribbon development or build up and will be in keeping with the dispersed settlement pattern in the immediate area. As such, there will be no negative impact on rural character.

Approval recommended with conditions.

## Conditions

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

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

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

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

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

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

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

4. The proposed dwelling shall be sited in the area shaded green on the approved plan 01/01 date stamped 17 Dec 2018.

Reason: To ensure that the development is not prominent and is satisfactorily integrated into the landscape in accordance with the requirements of Planning Policy Statement 21.

5. The proposed dwelling shall have a ridge height of less than 8 metres above finished floor level.

Reason: To ensure that the development is not prominent in the landscape in accordance with the requirements of Planning Policy Statement 21 and with the adjacent residential dwellings.

6. 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. A detailed landscaping plan of any undefined boundaries should be submitted for consideration of the Council.

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.

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

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

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

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

**Signature(s):**

**Date**



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> LA09/2018/0495/O	<b>Target Date:</b>
<b>Proposal:</b> Proposed 2 storey infill dwelling and garage	<b>Location:</b> Site adjacent to 22 Carnaman Road Gulladuff
<b>Referral Route:</b> Contrary to CTY 1, 8, 13 &14 of PPS 21	
<b>Recommendation:</b>	<b>Refusal</b>
<b>Applicant Name and Address:</b> Liam Duggan 22 Carnaman Road Gulladuff Magherafelt	<b>Agent Name and Address:</b> Newline Architects 48 Main Street Castledawson BT45 8AB
<b>Executive Summary:</b>	
<b>Signature(s):</b>	

*cafeon*  
25/7/18



## Case Officer Report

### Site Location Plan



### Consultations:

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

### Representations:

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

**Summary of Issues** - No Issues



**Characteristics of the Site and Area**

The site is located approximately 1.5 mile north east of Gulladuff in open countryside in accordance with the Magherafelt Area Plan 2015. The site is located 20m north east of No 22 and consists of a cut out portion of a large linear agricultural field. Access to the site is via an existing laneway and the site has dual frontage on the laneway due to two 90 degree bends on the laneway. The north west boundary of the is defined by 2m high hawthorn hedge, the south east and south west boundaries are defined by a P/W fence and the north east boundary is undefined. The site rises in a north westerly direction in line with No 22 before sloping down towards the rear of the boundary of the site.

The surrounding area is characterised by roadside dwellings, farm buildings and undulating landscape. The predominant land use is of an agricultural nature.

**Description of Proposal**

The application seeks outline planning permission for a two storey dwelling and garage (infill site).

**Planning Assessment of Policy and Other Material Considerations****Relevant Site History:**

No relevant history

**Representations:**

2 neighbour's notification letters were sent to Nos 20a, 22, 23 & 24 Carnaman Road, Knockcloghrim,

No letters of representation have been received.

**Development Plan and Key Policy Consideration:**

Decisions must be taken in accordance with the provisions of the Local Development Plan unless material considerations indicate otherwise.

Magherfelt Area Plan 2015: The site is located in the open countryside. There are no other designations on the site.

SPPS – Strategic Planning Policy Statement for Northern Ireland: sets out the guiding principle in determining planning applications is that sustainable development should be permitted, having regards to the development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.

Infill/Ribbon Development, provision should be made for the development of a small gap site in an otherwise substantial and continuously built up frontage.

PPS 3: Access, Movement and Parking (Revised 2005) and PPS 3 (Clarification 2006): sets out planning policies for vehicular and pedestrian access, transport assessment, the protection of transport routes and parking.

PPS21: Sustainable Development in the Countryside: sets out planning policies for development in the countryside. CTY 1 states that there are a range of types of development which in principle are considered acceptable in the countryside. One of these is the development of a small gap site within an otherwise substantial and continuously built up frontage in accordance with CTY 8. Policy CTY 8 states that planning permission will be refused for a building which creates or adds to a ribbon of development. An exception is however permitted for the development of a small gap site sufficient only to accommodate up to a maximum of two houses. Policy CTY 8 requires four specific elements to be met:



-The gap site must be within an otherwise substantial and continuously built up frontage and includes a line of 3 or more buildings along a road frontage without accompanying development to the rear;

- The gap site must be small;
- The existing development pattern along the frontage must be respected;
- And other planning and environmental requirements must be met.

Paragraph 5.33 of PPS 21 advises that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they have a common frontage or they are visually linked. However, this only sets out the basis for establishing generally where a ribbon of development, either exists or may arise. It is not concerned with defining a substantial and continuously built up frontage.

The site forms part of an existing gap between 3 existing dwellings and some outbuildings which are all accessed off a private laneway on the Carnaman Road. There is one dwelling (No 22) and outbuildings to the south east and two dwellings to the north west (No 24 and a new dwelling under construction). The site has dual frontage on the laneway this is due to two 90 degree bends on the laneway. No 24 and the new dwelling are set back approximately 100m from the laneway and both are accessed via a separate spur off that laneway. The curtilages of No 24 and the new dwelling are set back and separated from the laneway by agricultural fields as a result neither of these dwellings cannot be considered form part of a substantial and continuously built up frontage. Whilst the curtilage of the dwelling at No 22 abuts the laneway, it's located on the opposite side of the laneway form the site and cannot be considered to form a substantial and continuously built up frontage.

Ribbon development can occur even where development does not have frontage to a road. Paragraph 5.33 of PPS 21 states that buildings sited back, staggered or at angles and with gaps between them can still represent ribbon development, if they are visually linked. The site would be clearly seen together with No 22, the outbuildings located south east of No 22, No 24 and the new dwelling under construction and would result in the creation of ribbon development when viewed from various vantage points on the Carnaman Road. The image below depicts how the site provides a visual breaks in the landscape between the two dwellings on either side.



I have determined that the site is not within a substantial and continuously built up frontage, therefore no infill opportunity exists and issues regarding plot size, frontage size and development pattern are not relevant.

### Integration

Policy CTY13 states that planning permission will be granted for a building in the countryside where it can be visually integrate into the surrounding landscape. The application proposes a two



storey dwelling and despite the site's sloping topography the site would not be able to accommodate a two storey dwelling even if the dwelling is located in the lower south east portion of the site. As a result a two storey dwelling would be a prominent feature in the landscape, read as skyline development and would be heavily reliant on new planting to achieve integration. Due to the open and exposed nature of the site it would be unable to provide a suitable degree of enclosure and is contrary to criteria (a), (b) and (c) of Policy CTY 13.

#### **Impact on Character and Appearance of the Area**

Policy CTY14 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. It also states that a new building will be unacceptable where it results in a suburban style build-up of development when viewed with existing development and approved buildings and where it creates or adds to a ribbon of development. I have already determined that the proposal would create a ribbon of development which is a suburban style of development. This would therefore cause detrimental change to, and further erode the rural character of the area. Due to the open and exposed nature of the site a two storey dwelling would be unduly prominent in the landscape and is contrary to criteria (a), (b) and (d) of Policy CTY 14.

#### **Other Matter**

The applicant has not sought to argue that the proposed development falls into any other category of acceptable development identified in Policy CTY1. No evidence has been advanced that the proposed development could not be located in a settlement. Therefore, the proposal is contrary to CTY1 of PPS21.

#### **Other Material Consideration.**

I am satisfied that the proposal will not lead to a significant deterioration in road safety under the provisions of PPS 3 Access, Movement and Parking. Furthermore I am satisfied that the proposed site will not have significant adverse impact on neighbouring amenity, this can be further considered at RM stage if approval is forthcoming.

<b>Neighbour Notification Checked</b>	<b>Yes</b>
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#### **Summary of Recommendation: Contrary to CTY 1, 8, 13 & 14 of PPS 21**

#### **Refusal Reasons**

1. The proposal is contrary to Policy CTY1 of Planning Policy Statement 21, Sustainable Development in the Countryside in that there are no overriding reasons why this development is essential in this rural location and could not be located within a settlement.
2. The proposal is contrary to Policy CTY8 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the proposal does not constitute a gap site and would, if permitted, result in the creation of ribbon development and fails to meet the provisions for an infill dwelling in accordance with CTY 8 of PPS 21.
3. The proposal is contrary to Policy CTY13 of Planning Policy Statement 21, Sustainable Development in the Countryside, in that the proposed two dwelling would be a prominent feature in the landscape, lacks long established natural boundaries, is unable to provide a suitable degree of enclosure, relies primarily on the use of new landscaping for integration, fails to blend with the landform, existing trees, buildings, slopes and other natural features which provide a backdrop and therefore would not visually integrate into the surrounding landscape.

4. The proposal is contrary to Policy CTY14 of Planning Policy Statement 21, Sustainable Development in the Countryside in that the building would, if permitted, be unduly prominent in the landscape and would result in a suburban style build-up of development when viewed with existing and approved buildings and would not respect the traditional pattern of settlement exhibited in that area and would therefore result in a detrimental change to, and further erode the rural character of the countryside.

**Signature(s)**

**Date:**

ANNEX	
<b>Date Valid</b>	11th April 2018
<b>Date First Advertised</b>	26th April 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 20a Carnaman Road Knockcloghrim The Owner/Occupier, 22 Carnaman Road, Knockcloghrim, Magherafelt, Londonderry, BT45 8PN, The Owner/Occupier, 23 Carnaman Road, Knockcloghrim, Magherafelt, Londonderry, BT45 8PN, The Owner/Occupier, 24 Carnaman Road, Knockcloghrim, Magherafelt, Londonderry, BT45 8PN,	
<b>Date of Last Neighbour Notification</b>	
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	No
<b>Planning History</b>  Ref ID: LA09/2018/0495/O Proposal: Proposed 2 storey infill dwelling and garage Address: Site adjacent to 22 Carnaman Road, Gulladuff, Decision: Decision Date:  Ref ID: H/1996/0304 Proposal: SITE OF REPLACEMENT DWELLING Address: 20 CARNAMAN ROAD KNOCKLOUGHRIM Decision: Decision Date:  Ref ID: H/1997/0163 Proposal: REPLACEMENT DWELLING Address: ADJ TO 20 CARNAMAN ROAD KNOCKLOUGHRIM Decision: Decision Date:  Ref ID: H/2005/1080/F Proposal: Single storey extension to rear of dwelling, attic conversion and garage Address: 20A Carnaman Road, Knockloughrim Decision: Decision Date: 27.02.2006  Ref ID: H/2002/0796/O Proposal: Site of Dwelling and Garage	



Address: North West of 22 Carnaman Road, Knockloughrim

Decision:

Decision Date: 16.10.2002

Ref ID: H/2005/0998/RM

Proposal: Dwelling and garage.

Address: North West of 22 Carnaman Road, Knockloughrim.

Decision:

Decision Date: 19.06.2006

Ref ID: H/2003/1214/O

Proposal: Site of dwelling and garage.

Address: 130m North West of 22 Carnaman Road, Knockloughrim.

Decision:

Decision Date: 16.11.2004

Ref ID: H/2011/0523/F

Proposal: Proposed relocation of approved garage and amendment to site curtilage on commenced site H/2005/0998/RM

Address: 24 Carnaman Road Knockloughrim,

Decision:

Decision Date: 14.12.2011

Ref ID: H/1978/0212

Proposal: SITE OF REPLACEMENT DWELLING

Address: DRUNARD MAGHERAFELT

Decision:

Decision Date:

Ref ID: H/2007/1012/RM

Proposal: Proposed Dwelling & Garage

Address: 130m North West of 22 Carnaman Road, Knockloughrim

Decision:

Decision Date: 20.02.2008

### 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:



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

## Deferred Consideration Report

Summary	
<b>Case Officer:</b> Emma McCullagh	
<b>Application ID:</b> LA09/2018/1238/F	
<b>Proposal:</b> Retention of existing agricultural storage shed	<b>Location:</b> Approx 20m SW of 31A Culbane Road Portglenone
<b>Applicant Name and Address:</b> Mr Ger McPeake 21A Culbane Road Portglenone BT44 8NZ	<b>Agent name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Summary of Issues:</b>  Application deferred at Committee for further consideration relating to previous refusal reasons.	
<b>Characteristics of the Site and Area:</b>  <p>The application site is a 0.1 hectare plot of land taking in 4 agricultural buildings adjacent to two dwellings at 31a and 31c Culbane Road, Portglenone. The site is just outside the settlement limits of Ballynease as defined in the Magherafelt Area Plan 2015. There is effectively 2 access points to the site coming directly off the Culbane Road. One provides access to the two agricultural sheds closest to the public road. The second access runs down the side of these sheds and is used to access two sheds and 3 dwellings – numbers 31a, 31b and 31c.</p> <p>This area is generally rural in character with a gently undulating topography. It has experienced a slight build-up of development in recent years, with detached dwellings scattering the locality. The immediate area is not subject to any designations or constraints.</p>	

**Description of Proposal**

This is a full application for the retention of an existing agricultural storage shed that does not benefit from planning approval. It measures 18.m in length, 8.2m in width and 4.5m in height (at its highest point). It is completely open at one side and is currently used for the storage of agricultural machinery.

**Deferred Consideration:**

This application was deferred for an office meeting, which was held on 13<sup>th</sup> December 2018. The refusal reasons were discussed with the applicant.

CTY12 states that development will only be permitted on an active and established agricultural holding subject to certain criteria.

At the office meeting the applicant advised he inherited the farm from his grandfather who died in Dec 2015, and so as he could not use that number, therefore applied for his own farm Bus ID number and got this in Jan 2016. DEARA had then been consulted with his Bus ID and confirmed that the business was established in Jan 2016 and SFP have been claimed. This is considered a continuation of the same farm business as the applicant stated he had always been involved in the farming activities when the farm business was in his grandfather's name.

(a) it must be necessary for the efficient use of the agricultural holding. In this case, the applicant advised he has historically had the machinery located in this area, within the building in place, and built the shed for the reason of keeping the machinery out of adverse weather conditions, which would in turn render them useless and impact on the work being able to be carried out on the farm. Therefore it is necessary for them to be covered to keep the expensive machinery in working condition.

(b) in terms of character and scale it should be appropriate to its location. The character of this piece of land has long since been for agricultural, as the machinery now housed by the shed has sat there without cover. There is a mix of dwelling and agricultural buildings in the near vicinity so in terms of character it is not out of keeping.

(c) it visually integrates into the local landscape, which is agricultural along with some residential.

(d) it is not in an area which has any built or natural heritage issues.

(e) in terms of resulting in detrimental impact on the amenity of residential dwellings outside the holding, including problems arising from noise, smell and pollution.

The shed is currently used for storage of machinery and will not generate any unacceptable odour. Env Health have been consulted and raised no objections in terms of noise or smells. No formal objections have been received.

In terms of scale, it was initially raised by the case officer that due to the close proximity of the 2 dwellings, the building would appear excessive and overbearing, however the machinery has been on site for some time, which is substantial in size and scale, the difference now being that they have been covered on 3 sides. A condition on any approval



limiting the use to machinery, will protect amenity of residents in the future to ensure no animals/livestock will be located in the shed.

CTY12 states where a new building is proposed applicants need to provide information to confirm;

- there are no suitable existing buildings on the holding that can be used; which has been provided.

- the design and materials are to be sympathetic to locale and adjacent buildings; the finish is typical of a building for this type of use. It will remain open at the front.

- the proposal is sited beside existing farm buildings. - This has been the established farmyard area and why the machinery has been sitting out in the yard, as it is the natural progression of the farmyard to house a shed on this site. Policy CTY12 goes on to state, that exceptionally consideration may be given to alternative site away from the existing farm, provided there are no other sites available at group of buildings on the holding. So it may have been if the applicant applied for permission elsewhere on the holding, he would have been directed back to this location to site with the existing farm buildings on the holding.

In terms of the DFI Roads issue, the area the storage shed now occupies was always part of the farmyard and was utilised for storage of materials and plant externally, the only difference now it is covered, still remaining open to the front. As this is the case, no additional traffic movements have been created, keeping the traffic the same. Access can be retained as existing, not requiring an upgrade.

Approval is recommended, conditioning the open front design and storage only for machinery.

### **Conditions**

1. This decision is issued under section 55 of the Planning Act (NI) 2011.

Reason: This is a retrospective application

2. The shed hereby approved will be used only for the storage of agricultural machinery.

Reason: To protect the amenity of nearby residents.

**Signature(s):**

**Date**

## Development Management Officer Report Committee Application

Summary	
<b>Committee Meeting Date:</b> 4 <sup>th</sup> Dec 2016	<b>Item Number:</b>
<b>Application ID:</b> LA09/2018/1238/F	<b>Target Date:</b> 4 <sup>th</sup> Jan 2019
<b>Proposal:</b> Retention of existing agricultural storage shed	<b>Location:</b> Approx 20m SW of 31A Culbane Road Portglenone
<b>Referral Route:</b> Refusal recommended	
<b>Recommendation:</b> <span style="color: red;">Refuse</span>	
<b>Applicant Name and Address:</b> Mr Ger McPeake 21A Culbane Road Portglenone BT44 8NZ	<b>Agent Name and Address:</b> Diamond Architecture 77 Main Street Maghera BT46 5AB
<b>Executive Summary:</b> Existing Agricultural Building does not meet the policy tests contained within CTY 12 of PPS 21. It fails to comply with Policy AMP 2 of PPS 3 with regards to the provision of a safe access onto the public road. It also fails to comply with paragraph 2.3 of the SPPS in terms of the impact of the proposal on residential amenity. Refusal is recommend.	
<b>Signature(s):</b> <i>Canh 21/11/18</i>	

*Agred to c Ha*  
*[Signature]*  
*21/11/18*

## Case Officer Report

### Site Location Plan



### Consultations:

Consultation Type	Consultee	Response
Statutory	DFI Roads - Enniskillen Office	Advice
Non Statutory	Environmental Health Mid Ulster Council	No Objection
Statutory	DAERA - Coleraine	Advice

### Representations:

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

### Summary of Issues

In line with statutory consultation duties as part of the General Development Procedure Order (GDPO) 2015 an advert for this proposal was placed in local newspapers and 4 adjoining properties were consulted by letter – 33b, 31a, 31b and 31c Culbane Road. To date, no objections have been received.

DAERA and EH have no objections to the proposal. DFI Roads have requested the submission of amended plans and additional information. I have not requested this information as the proposal is unacceptable in principle.



## Characteristics of the Site and Area

The application site is a 0.1 hectare plot of land taking in 4 agricultural buildings adjacent to two dwellings at 31a and 31c Culbane Road, Portglenone. The site is just outside the settlement limits of Ballynease as defined in the Magherafelt Area Plan 2015. There is effectively 2 access points to the site coming directly off the Culbane Road. One provides access to the two agricultural sheds closest to the public road. The second access runs down the side of these sheds and is used to access two sheds and 3 dwellings – numbers 31a, 31b and 31c.

This area is generally rural in character with a gently undulating topography. It has experienced a slight build-up of development in recent years, with detached dwellings scattering the locality. The immediate area is not subject to any designations or constraints.

## Description of Proposal

This is a full application for the retention of an existing agricultural storage shed that does not benefit from planning approval. It measures 18.m in length, 8.2m in width and 4.5m in height (at its highest point). It is completely open at one side and is currently used for the storage of agricultural machinery.

## Planning Assessment of Policy and Other Material Considerations

### Planning History

This building does not benefit from any sort of planning permission. It cannot be considered as Agricultural Permitted Development as it is located less than 75m from a third party dwelling. It is subject to on-going enforcement action - LA09/2018/0065/CA.

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

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

### Magherafelt Area Plan 2015

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

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

The SPPS has superseded PPS 1 (General Principles). In paragraph 2.3 of the SPPS it states *“The basic question is not whether owners and occupiers of neighbouring properties would experience financial loss from a particular development, but whether the proposal would unacceptably affect the amenities and the existing use of land and buildings that ought to be protected in the public interest. Good neighbourliness and fairness are among the yardsticks against which development proposals will be measured”*. The existing shed is located straight opposite (13.5m) a third party dwelling and 14.0m in front of another third party dwelling. Given these very minimal separation distances it is very evident that this development is having a



negative impact on their privacy. It's positioning and scale is overbearing and in my opinion is a prime example of poor neighbourliness.

The SPPS also gives provision for development in the countryside subject to a number policy provisions, including policy for Agricultural Buildings. It does not present any change in policy direction in this regard, therefore existing rural policy applies (ie) CTY 12 of PPS 21

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

Policy AMP 2 of PPS 3 permits direct access onto a public road where it does not prejudice road safety or inconvenience the flow of traffic. This proposal involves utilising an existing laneway. DFI Roads have been consulted and have stated that the existing sight splays are substandard. They recommend splays of 2.4m x 60m. They have also requested submission of TAF so that they can fully consider the impact of the proposal on the public road network. The applicant has submitted information in which he makes a case that there is no intensification therefore upgrading is not necessary. DFI Roads have been consulted with this information but have yet to comment. It would be my opinion that in the absence of DFI Roads agreeing with the applicant in this regard then the proposal, as it stands, fails to comply with policy AMP 2 as it has not been demonstrated that it does not prejudice road safety or inconvenience traffic flow.

### **PPS21 – Sustainable Development in the Countryside**

Policy CTY 12 will permit development on an active and established agricultural holding subject to certain criteria.

PPS 21 states that active and established equates to 6 years. DAERA have been consulted with the applicant's farm details and have advised that the farm business was only established in January 2016 and claims have only been made between 2016-2018. On the basis of this response from DAERA it is clear that the farm business has not been established for the required period as is set down in policy.

The applicant has not submitted any evidence to demonstrate that the existing building is necessary for the efficient use of the holding.

The building is sited in a location where there are a mix of dwellings and agricultural buildings so in terms of character, the existing building is not out of keeping. In terms of its scale I would have concerns. Due to its close proximity to two dwellings its scale appears excessive and overbearing. (See photos below). Whilst it may cluster with adjacent agricultural buildings this in itself does not make it acceptable. It is not located in an area where there are any built or natural heritage issues.







My main concern with this building is the detrimental impact it has on the amenity of residential dwellings outside the holding. The two dwellings that experience the greatest impact are numbers 31a and 31c. Whilst neither occupant has objected to the proposal, it is my duty to consider the impact of this building on these properties. It is evident from the above photograph that the siting of this building is unacceptable. The occupants will undoubtedly experience a loss of privacy due to its insensitive location. As they open their front doors or look out their front windows it dominates their view to an extent that is unacceptable. The shed is currently used for the storing of machinery which will not generate any unacceptable odours. Environmental Health have been consulted and have raised no concerns in respect of unacceptable noise or smells.

CTY 12 clearly states that where a new building is proposed that applicant is required to demonstrate that there are no suitable existing buildings on the holding that can be used. This has not been demonstrated.

The address of the farm business, as provided on the P1C form, is 33a Culbane Road. The applicant has not provided any justification as to why a site away from the main holding should be considered.

**Neighbour Notification Checked**

**Yes**

**Summary of Recommendation:**

On the basis of the above assessment it is my view that the proposal fails to comply with the SPPS in terms of impact on residential amenity, policy AMP 2 of PPS 3 in terms of demonstrating a safe access onto a public road and Policy CTY 12 of PPS 21.

**Refusal Reasons**

1. The proposal is contrary to Policy CTY 1 and CTY12 of Planning Policy Statement 21, Sustainable Development in the Countryside in that:

- the existing agricultural holding is not currently established
- it is not necessary for the efficient use of the agricultural holding
- it is not appropriate to this location due to the scale of the development
- the development, if permitted, would result in a detrimental impact on the amenity of residential dwellings outside the holding or enterprise by reason of loss of privacy and over dominance.

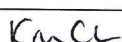
In cases where a new building is proposed the applicant has not provided sufficient information to confirm that there are no suitable existing buildings on the holding or enterprise that can be used.

Additionally in cases where a new building is proposed at an alternative site away from existing farm buildings it has not been demonstrated that there are no alternative sites available at another group of buildings on the holding and

- that health and safety reasons exist to justify an alternative site away from the existing farm buildings.
- that the alternative site away is essential for the efficient functioning of the business.

2. The proposal is contrary to Policy AMP 2 of Planning Policy Statement 3 in that it has not been demonstrated that the proposal will not prejudice road safety or significantly inconvenience the free flow of traffic.

3. This proposal is contrary to paragraph 2.3 of the SPPS in that it would unacceptably affect residential amenity and good neighbourliness by impacting on the privacy of adjacent occupants.

**Signature(s)** 

**Date:** 21-11-18



<b>ANNEX</b>	
<b>Date Valid</b>	21st September 2018
<b>Date First Advertised</b>	4th October 2018
<b>Date Last Advertised</b>	
<b>Details of Neighbour Notification</b> (all addresses) The Owner/Occupier, 29 Culbane Road Portglenone Londonderry The Owner/Occupier, 29a Culbane Road Portglenone The Owner/Occupier, 31 Culbane Road Portglenone Londonderry The Owner/Occupier, 31a Culbane Road Portglenone The Owner/Occupier, 31b Culbane Road Portglenone The Owner/Occupier, 31c Culbane Road Portglenone The Owner/Occupier, 33 Culbane Road Portglenone Londonderry The Owner/Occupier, 33b Culbane Road Portglenone	
<b>Date of Last Neighbour Notification</b>	27th September 2018
<b>Date of EIA Determination</b>	
<b>ES Requested</b>	Yes /No
<b>Planning History</b>  Ref ID: H/1998/0536 Proposal: DWELLING AND GARAGE Address: ADJACENT TO 31A CULBANN ROAD PORTGLENONE Decision: Decision Date:  Ref ID: H/1994/0360 Proposal: ALTS & ADDS TO DWELLING Address: 31A CULBANE ROAD PORTGLENONE Decision: Decision Date:	



Ref ID: H/1998/0192

Proposal: SITE OF DWELLING AND GARAGE

Address: ADJACENT TO 31A CULBANE ROAD PORTGLENONE

Decision:

Decision Date:

Ref ID: H/2005/0860/F

Proposal: Dwelling & Detached Garage in substitution for previous approval

H/2004/0452/O

Address: Opposite 33 Culbane Road, Ballynease, Portglenone

Decision:

Decision Date: 07.02.2006

Ref ID: H/1999/0117

Proposal: SITE OF RETIREMENT DWELLING

Address: 60M NORTH EAST OF 31 CULBANE ROAD PORTGLENONE

Decision:

Decision Date:

Ref ID: LA09/2018/1238/F

Proposal: Retention of existing agricultural storage shed

Address: Approx 20m SW of 31A Culbane Road, Portglenone,

Decision:

Decision Date:

Ref ID: H/2000/0219/RO

Proposal: Dwelling And Garage

Address: 60 Metres North East Of 31 Culbane Road, Portglenone

Decision:

Decision Date: 17.05.2000

### Summary of Consultee Responses

DAERA and EH have no objections to the proposal. DFI Roads have requested the submission of amended plans and additional information. I have not requested this information as the proposal is unacceptable in principle.

Drawing Numbers and Title
Drawing No. 02 Type: Site Layout or Block Plan Status: Submitted
Drawing No. 04 Type: Proposed Plans Status: Submitted
Drawing No. 01 Type: Site Location Plan Status: Submitted
Drawing No. 03 Type: Proposed Plans Status: Submitted
<b>Notification to Department (if relevant)</b>  Date of Notification to Department: Response of Department:

**Minutes of Meeting of Planning Committee of Mid Ulster District Council held on Monday 7 January 2019 in Council Offices, Ballyronan Road, Magherafelt**

**Members Present**

Councillor Glasgow, Chair

Councillors Bell, Clarke, Colvin, Cuthbertson, Gildernew, Kearney, McAleer, McEldowney, McKinney, D McPeake, S McPeake, Robinson, J Shiels

**Officers in Attendance**

Dr Boomer, Planning Manager  
Mr Bowman, Head of Development Management  
Ms Doyle, Senior Planning Officer  
Mr McCrystal, Senior Planning Officer  
Ms McCullagh, Senior Planning Officer  
Ms McEvoy, Head of Development Plan and Enforcement  
Ms McKearney, Senior Planning Officer  
Mr Marrion, Senior Planning Officer  
Ms McNally, Council Solicitor  
Mrs Grogan, Democratic Services Officer

**Others in Attendance**

Councillors B McGuigan

**Applicant Speakers**

LA09/2017/0126/F	Gavin Smyth
LA09/2017/0126/F	Dermot Monaghan
	Michael Murphy
LA09/2017/1004/O	Toirleach Gourley
LA09/2017/1149/O	Chris Cassidy
LA09/2017/1447/F	Gavin McGill
LA09/2018/0414/F	Thomas Beattie
LA09/2018/0458/F	Chris Cassidy
LA09/2018/1093/F	Chris Cassidy
LA09/2018/1102/O	Liam Ward
LA09/2018/1156/F	Aidan Kelly
LA09/2018/1258/F	Chris Cassidy
LA09/2018/1293/O	Chris Cassidy
LA09/2017/0998/F	Mary B McKenna
LA09/2017/1241/O	Chris Cassidy
LA09/2017/1244/O	Joe Diamond
LA09/2017/1349/F	Chris Cassidy

The meeting commenced at 7.03 pm.

The absence of the Chair, Councillor Mallaghan, Councillor Glasgow, Deputy Chair took the Chair.

**P001/19      Apologies**

Councillors Mallaghan and Mullen.

**P002/19      Declarations of Interest**

The Chair reminded members of their responsibility with regard to declarations of interest.

**P003/19      Chair's Business**

No issues.

**Matters for Decision**

The Planning Manager referred to the below applications which were on the agenda for determination. The Chair sought approval to have the following applications deferred/withdrawn from tonight's meeting schedule for an office meeting –

Agenda Item 4.6 – LA09/2017/1004/O - Dwelling and garage on a farm at land approx. 320m NW of 180 Caledon Road, Aughnacloy for Mr Adrian Robinson

Agenda Item 4.8 – LA09/2017/1149/O – Dwelling and domestic garage/store approx. 50m S of 20 Gortahurk Road, Brackaghlislea, Draperstown for Mr Peter Kelly

Agenda Item 4.12 - LA09/2018/0458/F – Relocation of recently approved dwelling and garage including site and access at 75m S.W. of 7 Glengomna Road, Draperstown for Mr Joe McGillian

Agenda item 4.14 – LA09/2018/0885/O – Farm dwelling and garage (renewal of approved LA09/2015/0292/O) at 20m SW of 9 Mackenny Road, Cookstown for Mrs Heather Moffett (withdrawn)

Agenda Item 4.15 – LA09/2018/1064/O – Dwelling and garage 230m SW of 7 Newline Road, Cookstown for Mr Oliver Heagney (withdrawn)

Agenda Item 4.16 - LA09/2018/1093/F – Dwelling and domestic garage/store, approx. 70m ESE of 7 Gortinure Road, Tamnymullan, Maghera for Mr Michael McEldowney

Agenda Item 4.21 – LA09/2018/1258/F – 2 Dwelling houses and garages between 39 and 41 Syerla Road, Dungannon for Farasha Properties Ltd

Agenda Item 4.22 – LA09/2018/1293/O – Dwelling and garage 40m N of 210 Shore Road, Ballymaguigan, Magherafelt for Mr Brian Boyle

Proposed by Councillor Bell  
Seconded by Councillor J Shiels and

**Resolved**      That the planning applications listed above be deferred/withdrawn from tonight's list for consideration for an office meeting.

## **P004/19      Planning Applications for Determination**

### **LA09/2016/0470/F   Retention of the change of use of existing industrial buildings from Re-Cycling Storage Facility to a General Engineering use at 111 Ballynakilly Road, Coalisland for Mr James Devlin**

Members considered previously circulated report on planning application LA09/2016/0470/F which had a recommendation for approval.

*Councillor Cuthbertson declared an interest in Planning Application LA09/2016/0470/F and LA09/2016/1223/F.*

It was agreed that applications LA09/2016/0470/F and LA09/2016/1223/F be discussed together.

Councillor Cuthbertson raised concern regarding the two applications and advised that it was proposed to change the use of existing industrial building from a recycling storage facility to a general engineering use and the retention of 3 hard standing areas incidental to the use of the engineering workshop. He felt that this was moving closer to the residential area.

He advised that he attended a play facility at Ballynakilly with Council staff and he observed more than one person using these particular sheds.

The Planning Manager said that there seemed to be some confusion as the Councillor was not liable to make a declaration of interest unless he had a pecuniary interest in the land or was making a representation on a persons behalf.

Councillor Cuthbertson advised that he would be declaring an interest as he was part of the conversations with residents of the area.

Councillor Cuthbertson said that a sign at the playpark advertised Mac Cladding and that he was also aware of someone using it as a store and in relation to the 3 hard standing areas, this committee previously decided that this would bring them closer. He said that although he welcomed all the conditions applied to the workshop, he had concerns that so many businesses operate at the site and the 3 hard standing areas.

Mr Marrion (SPO) took members through the report and concerns raised by the Councillor.

Councillor Cuthbertson stated that he appreciated the clarification from the Case Officer but felt if conditions were put on Mr James Devlin regarding operating hours etc for recycling plant then this should be applied to the others.

The Planning Manager stated that if the Councillor declared an interest or wished to represent someone, he should withdraw to the public gallery or make a request to speak and take the podium.

He said that firstly it's for general engineering use and the plan shows the different units.

Proposed by Councillor S McPeake  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2016/0470/F be approved subject to conditions as per the officer's report.

**LA09/2016/1223/F Retention of 3 hard standing areas incidental to the use of the Engineering Workshop at 111 Ballynakilly Road, Coalisland for Mr James Devlin**

Members considered previously circulated report on planning application LA09/2016/1223/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Gildernew and

**Resolved** That planning application LA09/2016/1223/F be approved subject to conditions as per the officer's report.

**LA09/2017/0122/F Secure Garage for storage of vehicles at 140 Dungannon Road, Ballygawley for Barrack Hill Quarries**

Members considered previously circulated report on planning application LA09/2017/0122/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2017/0122/F be approved subject to conditions as per the officer's report.

**LA09/2017/0126/F Housing Development to include reduction of dwelling units to 37 no. units and alterations to house types from previous lapsed permission ref H/2008/0216/F at site at Magherafelt Road at junction with Drumard Road, Draperstown for Rea Developments**

Ms McCullagh (SPO) presented previously circulated report on planning application LA09/2016/0470/F which had a recommendation for approval.

The Chair advised that request to speak had been received, one in favour and one against.

The Chair advised that Mr Murphy and his agent Mr Monaghan were in attendance to speak against the application and asked them to address the committee.

Mr Murphy advised that his reason for objecting to this application was that it would be inappropriate for his business. He said that his business was a hot dip galvanising company which was a proven way to protect steel from corrosion. He continued to say that Sperrin Galvanisers was a very high employer in the area which provided top salaries to manual labourers in the local community. His concern was that there is a high volume of lorries and other heavy type machinery including forklifts, heavy steel noise and hydrochloric acid 24 hours a day. He said that there have been complaints raised in the past from people who were not nearly as close in distance to this new development. He stated that there was a lack of amenity and would not wish to come into conflict with residents. He concluded by saying that he had no issue against the proposed new development but would ask that consideration be given to seeking an alternative site.

The Planning Manager pointed out the land was zoned for housing and asked was the objection about separating distance or was there another issue and asked where he thought the houses should be located on the plan on the overhead presentation.

Mr Monaghan felt that this was not an issue for his client to answer and more about getting a favourable solution which wouldn't impact on his client's business.

The Chair advised that Mr Gavin Smyth was in attendance to speak in favour of the application and asked him to address the committee.

Mr Smyth advised that he was here in support of the case officer's recommendation. He said that the site was consistent with planning protocol and consideration of the site was appropriate. He said that there was no major concerns raised when a noise impact statement was carried out in 2017 relating to traffic coming from the Magherafelt Road and was also supported by Environmental Health findings.

Mr Smyth advised that the objector applied for planning permission in 2017 for an extension to his yard and he didn't see any concerns to residents at that time and felt that the same should be applied here. He said that there were no other concerns raised and advised that all aspects had been considered to include double glazing and a dust and motor impact assessments carried out and most importantly there will be no prejudice to the objector's business.

In response to Councillor McKinney's query, Ms McCullagh (SPO) advised that the area was 1.5 hectares to accommodate 37 houses.

Councillor McKinney said that he was aware of another site approximately the same size which accommodated 20 houses and was quite tight. He said that he lives roughly 2 miles from the site and would be surprised if there wasn't any noise as it travels towards Desertmartin. He advised that he would find it hard to support the application as it was based in an industrial site.

The Planning Manager said that this was put through a public enquiry and was zoned for land and the definition was that it was for a housing site and not an industrial site and would ask that the remark be removed as it was proved that it was not an industrial site.



The Planning Manager enquired what the Objector's objection was, whether it was all its entirety as it would be unsustainable to say that it was not developable. He said that this was complicated and there was a need to be careful with assumptions about residential and development land, but that this doesn't mean to say that committee members cannot have concerns about the impact on neighbouring industry. He said that the case officer had addressed concerns through discussions with Environmental Health with regard to separating distances from work etc and they have come back to say that they are happy that this is adequate.

Councillor S McPeake said that he remained to be convinced and from the proposal and Councillor McKinney comments, he felt that it's unbelievable even to consider approving a development on this site. He said that Sperrin Galvanisers were a huge employer in the area, but with that came the noise and large plume of smoke coming through the area. He stated that it was incredible that IPI were looking over these complaints and if the application is passed tonight, this could leave us open down the line. He said that it was completely ludicrous if this is approved as it goes against all the good practice that this committee has learned.

In response to the Planning Manager's query, Mr Murphy advised that there was no change in operations since the facility became in existence.

The Planning Manager felt that it may be beneficial to defer the application and invite both parties to an office meeting to discuss concerns and see if a favourable can be achieved.

Proposed by Councillor McKinney  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2016/0470/F to be deferred for an office meeting.

**LA09/2017/0431/F Demolition of existing buildings and construction of 42 houses at 137 Mullinahoe Road, Ardboe for Forbes Furniture Group**

Members considered previously circulated report on planning application LA09/2017/0431/F which had a recommendation for approval.

Proposed by Councillor J Shiels  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2017/0431/F be approved subject to conditions as per the officer's report.

**LA09/2017/1004/O Dwelling and Garage on a farm at land approx. 320m NW of 180 Caledon Road, Aughnacloy for Mr Adrian Robinson**

Application agreed to be deferred earlier in the meeting.

**LA09/2017/1007/F 5 Townhouses to rear of 46 Union Place, Dungannon for  
Geno Property Ltd**

Members considered previously circulated report on planning application  
LA09/2017/1007/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2017/1007/F be approved subject to  
conditions as per the officer's report.

**LA09/2017/1149/O Dwelling and domestic garage/store approx 50m S of 20  
Gortahurk Road, Brackaghlistea, Draperstown for Mr Peter  
Kelly**

Application agreed to be deferred for office meeting earlier in meeting.

**LA09/2017/1447/F Residential development of 35 dwelling houses and garages  
at lands immediately N of Nos. 4, 6 and 8 Gallion Heights,  
Magherafelt Road, Moneymore (site access via Gallion  
Heights, Magherafelt Road, Moneymore) for McAlister  
Builders Ltd**

Members considered previously circulated report on planning application  
LA09/2017/1447/F which had a recommendation for approval.

Proposed by Councillor Shiels  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2017/1447/F be approved subject to  
conditions as per the officer's report.

**LA09/2018/0212/F Extension of existing workshop at 135m NE of 11 Derryvale  
Park, Derry Road, Coalisland for Mr Pat O'Neill**

Members considered previously circulated report on planning application  
LA09/2018/0212/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2018/0212/F be approved subject to  
conditions as per the officer's report.

**LA09/2018/0414/F Extension to existing Carmean Quarry at 18 Carmean Road,  
Moneymore for Northstone Materials**

Members considered previously circulated report on planning application  
LA09/2018/0414/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2018/0414/F be approved subject to conditions as per the officer's report.

**LA09/2018/0458/F Relocation of recently approved dwelling and garage including site and access at 75m S.W. of 7 Glengomna Road, Draperstown for Mr Joe McGillian**

Application agreed to be deferred for office meeting earlier in meeting.

**LA09/2018/0733/RM Infill dwelling and garage 30m W of 5a Dergenagh Road, Knockcloughrim for Mr Harold Leacock**

*Councillor McKinney declared an interest in planning application LA09/2018/0733/RM.*

Members considered previously circulated report on planning application LA09/2018/0733/RM which had a recommendation for approval.

Proposed by Councillor J Shiels  
Seconded by Councillor S McPeake

**Resolved** That planning application LA09/2018/0733/RM be approved subject to conditions as per the officer's report.

**LA09/2018/0885/O Farm dwelling and garage (renewal of approved LA09/2015/0292/O) at 20m SW of 9 Mackenny Road, Cookstown for Mrs Heather Moffett**

Application agreed to be withdrawn earlier in the meeting.

**LA09/2018/1064/O Dwelling and garage 230m SW of 7 Newline Road, Cookstown for Mr Oliver Heagney**

Application agreed to be withdrawn earlier in the meeting.

**LA09/2018/1093/F Dwelling and domestic garage/store approx. 70m ESE of 7 Gortinure Road, Tamnymullan, Maghera for Mr Michael McEldowney**

Application agreed to be deferred for office meeting earlier in meeting.

**LA09/2018/1097/F Pedestrian accesses – a stepped access from New Row to school entrance and a level access from Chichester Avenue to school entrance; Installation of automated vehicle barrier on school driveway at 43 New Row, Castledawson for New Row Primary School**

Members considered previously circulated report on planning application LA09/2018/1097/F which had a recommendation for approval.

Proposed by Councillor McKinney  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2018/1097/F be approved subject to conditions as per the officer's report.

**LA09/2018/1099/F Change of use from existing runway to commercial yard at 260m SE of 151 Mullanahoe, Ardboe for Mr Gary Campbell**

Members considered previously circulated report on planning application LA09/2018/1099/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Robinson and

**Resolved** That planning application LA09/2018/1099/F be approved subject to conditions as per the officer's report.

**LA09/2018/1102/O Site for dwelling approximately 60m S of 91A Aughrim Road, Magherafelt for Edmund Ferguson**

Ms McCullagh (SPO) presented report on planning application LA09/2018/1102/O advising that it was recommended for refusal.

The Chair advised that a request to speak in favour of the application had been received and invited Mr Ward to address the committee.

Mr Ward advised that planning policy was a subjective matter and that although we weren't the authors of the policy we had some degree of activity to this. He said that the one key aspect is the shed which is on the southern boundary of the site and would integrate with Policy CTY 2a where it can be seen as a suitable proposal for a cluster development.

He asked that fairness be applied as there was similarities with previously approved applications. He said that the infill related to the cluster to the north side and shed to the southern side and space between the shed and the site and would ask Councillors to look at accessing the shed for planning approval.

The Planning Manager said that the planning permission was not granted for the shed which shows that it was an unauthorised building.

Mr Ward advised that the policy does not set a test to see if it was authorised and this type of shed would be approved regardless.

The Planning Manager said that this was why his desk was littered with these kind of things and said that when consideration was given to buildings, they needed to be authorised otherwise there was no clear status. He said that the crossroads has an

orange hall and in an area which could be known as a cluster and because the shed is not authorised significant weight cannot be put to it.

Councillor S McPeake said that given the nature of the cluster he felt that it was stringent to refuse this and that it was not that often there was a clear cut focal point before us like an orange hall and a house at the crossroads.

The Planning Manager felt that there could be an issue of more sheds being built on neighbouring fields if this was the case and said that he would like to focus the committee on the reasons outlined tonight for refusal.

Councillor McKinney said that there was a fine line on whether it was a cluster or not and would be happy to approve the recommendation.

Councillor J Shiels said that he would also be happy to second the recommendation as he knows the road well and said that this was on a large hill and from the other road it cannot be seen in fairness. He said that this application was similar to another in Slaughneil with a focal point.

Councillor Bell said that if the committee was going to use the stringent letter of the law, there were two fields on the right side and that going forward someone coming in would not get an opportunity as the cluster would be confined to the left hand side.

The Planning Manager said that there were some issues which needed to be considered carefully otherwise this could result in unauthorised sheds being built in neighbouring fields.

Councillor Gildernew said that he would have no problem approving this application and without taking into consideration the shed.

The Council Solicitor advised that before a decision can be taken, the report in front of members has to be carefully considered as it outlines the reasons for refusal. She advised that if members were minded to go against the officer recommendation then clear reasons for doing so based on planning considerations need to be provided. She said that it struck her that there appeared to be the suggestion that the word “unlawful” development could be read in to or implied in the relevant policy. However, she said that she didn’t think that would be an appropriate interpretation of policy and it would appear reasonable that the development must be lawful and that this did not appear to be the position in respect of the shed.

Councillor S McPeake suggested that it would be beneficial to have a site meeting so that members can see for themselves and felt that a condition could be implemented to enhance the area through additional planting.

The Planning Manager agreed that a site meeting was a good idea and felt that any interested member should attend so a decision can be made without putting the planners in a situation.

Councillors McKinney and Gildernew withdrew their proposals.

Proposed by Councillor S McPeake  
Seconded by Councillor McAleer

**Resolved:** That planning application LA09/2018/1102/O be deferred for a site meeting.

**LA09/2018/1156/F 2 dwelling houses and garages between 39 and 41 Syerla Road, Dungannon for Farasha Properties Ltd**

Members considered previously circulated report on planning application LA09/2018/1156/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2018/1156/F be approved subject to conditions as per the officer's report.

**LA09/2018/1258/F Storage building and infilling of land approx. 110m NE of Portafill International Ltd, Dungannon Business Park, Killyliss for Acrow Formworks NI**

Application agreed to be deferred earlier in the meeting.

The case officer circulated addendum to advise of NIEA determination being carried out.

**LA09/2018/1293/O Dwelling and garage 40m N of 210 Shore Road, Ballymaguigan, Magherafelt for Mr Brian Boyle**

Application agreed to be deferred for office meeting earlier in meeting.

**LA09/2018/1324/F High quality natural stone paving, formal parking bays, carriageway resurfacing, street furniture, landscaping, signage, street lighting, festive lighting and drainage at Main Street, The Square, Dungannon Road, Barrack Street, Lineside, Barrack Square, Stewartstown Road, Station Road and Washingbay Road, Coalisland for Mid Ulster District Council**

*All Members present (Councillors Bell, Clarke, Cuthbertson, Gildernew, Kearney, Mallaghan, McAleer, McEldowney, McKinney, D McPeake, S McPeake, Mullan, Robinson, J Shiels) declared an interest in this application.*

The case officer circulated addendum to advise of letter of objection not being considered within the report.

Members considered previously circulated report on planning application LA09/2018/1324/F which had a recommendation for approval.

Proposed by Councillor J Shiels  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/1324/F be approved subject to conditions as per the officer's report.

**LA09/2018/1377/F Conversion of existing building to dwelling with side extension, new lane and associated site works adjacent to 19 Killycolpy Road, Stewartstown for Mr Gary Campbell**

Mr Marrion (SPO) presented report on planning application LA09/2018/1377/F advising that it was recommended for refusal.

Councillor Gildernew enquired what defines it as important whether a shed or stone building as this could be a far reaching effect due to it being an old building but still in tact.

Councillor S McPeake said that in the past conversions were approved and so were old stone buildings and enquired if there was a change to the policy.

The Planning Manager referred to CTY4 policy and said that there was confusion over whether this was a conversion or an old barn. He said that there could be an argument that the proposal was bigger and higher compared to the original building and may not fail the test on principle.

Councillor Gildernew said that with regard to old buildings, there were roofs pitched like this for a long time

Proposed by Councillor S McPeake

To defer until a formal agreement on the design is carried out.

The Planning Manager said that in his view the design and along with the point of principle it didn't fail the test. The planning manager had the design presented to members.

Councillor S McPeake said that if the Planning Manager was of the opinion that the design meets the test he would be happy to approve the application but if he wasn't then we should defer until clarified.

Proposed by Councillor Gildernew

To approve the application as he felt that worse applications have been passed.

Seconded by Councillor McAleer

To approve the application.



The Planning Manager said if the committee were content working towards seeing the application being approved, he would suggest deferring the application for an office meeting to address concerns raised.

Councillor Gildernew withdrew his proposal.

Proposed by Councillor Gildernew  
Seconded by Councillor McAleer and

**Resolved** That planning application LA09/2018/1102/O be deferred for an office meeting.

**LA09/2016/1040/F Retrospective application for the retention of the single storey portal frame shed and associated site works at lands opposite 8 Ballyheifer Road, Magherafelt for Mr Nicky Brown**

Ms McCullagh (SPO) presented report on planning application LA09/2016/1040/F advising that it was recommended for refusal.

Proposed by Councillor Gildernew  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2016/1040/F be refused on grounds stated in the officer's report.

**LA09/2016/1793/F Housing development of 18 detached dwellings, associated site works and landscaping (Onsite WWT plant details included), at lands opposite (SE) of 17-31 Benburb Road, Moy for Chris Traynor**

Members considered previously circulated report on planning application LA09/2016/1793/F which had a recommendation for approval.

Proposed by Councillor Gildernew  
Seconded by Councillor Bell and

**Resolved** That planning application LA09/2016/1793/F be approved.

**LA09/2017/0968/F Replacement storey and a half dwelling at 10 Minterburn Road, Caledon for Mrs M Murphy**

The Planning Manager advised that planning application LA09/2017/0968/F had been deferred for 1 month.

**LA09/2017/0998/F Retrospective application for top dressing of existing laneway; widening of sight splays at road entrance; widening of chicane, piping approx. 20m of open sheugh at land fronting onto Keerin Road approx. 625m W of 129 Broughderg Road, Omagh for Mr John O'Neill**

*Councillor Clarke declared an interest in planning application LA09/2017/0998/F.*

The case officer circulated addendum to advise of a typing error on page 3 of the report. Application refs should read I/2011/0461/F and LA09/2016/0681/NMC. Members to note 7 late objections received.

Ms McCullagh (SPO) presented previously circulated report on planning application LA09/2017/0998/F which had a recommendation for approval.

The Chair advised a request to speak against the application had been received and invited Mrs McKenna to address the committee.

Mrs McKenna advised that this was built without planning permission for a roadway. She said that the first use of the laneway resulted in heavy industrial vehicles carrying turbines to the construction site resulting in this now becoming an industrial laneway rather than an agricultural one. She said that there was an increase of traffic flow on small country roads, increase in noise and dust, health and safety implications, dangers to young people and harm to sensitive peatland with protected designated site, lack of public consultation in local newspapers.

Mrs McKenna stated that this has resulted in the construction of industrial laneway with no planning permission sought which meant that the applicant was making false representation for financial gain regardless of habitat or other items of importance. She said that concerns had been raised relating to the historic context of the site and implications of approving development which would damage the sensitive designated areas and especially the harm to local archaeological features within the site. Concerns regarding damage to areas of sensitive peatlands and peat extractions were also raised. She concluded by saying that the community would not have raised any objections if things had been carried out accordingly.

The Planning Manager said that the application was in front of committee members tonight and that he would have no doubt what Mrs McKenna was saying regarding the accommodation of vehicles. He enquired however, was the objection related to the laneway, the turbine or the laneway with the construction vehicles.

Mrs McKenna said that the objecting was to all as the description of the truth was not accurate as the laneway was being used as an industrial laneway rather than an agricultural one.

*Councillor Cuthbertson declared an interest in application LA09/2017/0998/F as he had been approached by the objectors.*

Proposed by Councillor Robinson  
Seconded by Councillor J Shiels

To accept the officer's recommendation of approval as he said that he listened to the objector and planners tonight and was happy to agree.

Councillor S McPeake said that there was no planning permission sought for the laneway agriculture or otherwise. He said that there was a laneway there previously and it is somewhat confusing without photographic evidence to get a clear picture. He stated that there could have been a permissible laneway there previously.

Proposed by Councillor McPeake

Seconded by Councillor Bell

To defer for a site meeting.

With regard to the laneway increasing in width to 11m, Councillor Robinson advised that agricultural vehicles were increasing in size and it would be understandable if a farmer wishes to get a larger laneway.

The Planning Manager said that if the members were concerned about the visible impact the site may have, it may be beneficial to those interested to arrange a site meeting.

Councillor McPeake agreed that a site meeting would clarify some issues.

The Chair said that he agreed with Councillor Robinson but that it was for the members to decide on the outcome.

The Chair put Councillor McPeake's proposal to the vote:

For	8
Against	5

The Chair put Councillor Robinson's proposal to the vote:

For	5
Against	8

**Resolved** That planning application LA09/2016/1793/F be deferred for a site meeting

In response to Councillor McKinney's concerns, the Planning Manager advised that the application was neither agreed or refused at this stage and spending a little extra time clarifying concerns raised through a deferral would not result in someone losing out but merely an opportunity to save arguments.

Councillor Robinson said that he understood what the Planning Manager was saying but that members had sat here tonight going round and around the same issues and not taking into consideration why things were not addressed at the time and that was why he recommended approving the application.

The Chair advised that the application was neither approved or refused and encouraged members to attend the site meeting so that a final decision can be made at the next meeting.

*The Chair advised that he would have to retire from the Committee meeting for personal reasons and left the meeting at 9.07 pm.*

Proposed by Councillor McPeake  
Seconded by Councillor Bell and

**Resolved** That Councillor Clarke take the Chair.

Councillor Clarke took the Chair.

**LA09/2017/1241/O Site for 2 storey dwelling and domestic garage 30m N of 38 Airfield Road, Toomebridge for Centum NI Ltd**

Ms McCullagh (SPO) presented report on planning application LA09/2017/1241/O advising that it was recommended for refusal.

Proposed by Councillor McKinney  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2017/1241/O be refused.

**LA09/2017/1244/O Site for dwelling and domestic garage 90m W of 16 Derrynoid Lane, Draperstown for Mr Brendan McCullagh**

Ms McCullagh (SPO) presented report on planning application LA09/2017/1244/O advising that it was recommended for refusal.

The Chair advised that a request to speak had been received from Councillor B McGuigan and asked him to address the committee.

Councillor B McGuigan advised that the case officer had made several points regarding other lands owned by the applicant, namely at an outlying farm at Dunmurry Road some 3 – 4 miles away, as noted previously these lands now cannot be accessed by the applicant for a new dwelling due to ownership issues.

A site was previously passed on this farm for the applicant's other son with the permission for all the owners of the lane; this was for one dwelling to serve the lands on this location. The applicant does not own the lane and with the third party owners refusing to give permission to allow additional traffic on the lane to serve another dwelling, this then rules out these lands as an option for the applicant.

The case officer states that in the context of the policy doesn't fulfil the criteria, it would be the opinion that this land at Dunmurry Road should not even be considered, there is no public road frontage to it therefore the applicant cannot gain direct access, all parts of the farm are unsuitable for any further domestic properties.

This application has been lodged so the applicant can have a site on the lands for his other son who also works on the farm, as stated in the case officers report the site chosen is not prominent in the landscape would not result in the creation or addition to

ribbon development due to the existing mature vegetation resulting in a well-integration site on the best available alternative land available to the applicant.

Ms McCullagh (SPO) in response to a query regarding previous planning approval advised that this was 10 years ago and not 8 years ago.

The Planning Manager referred to the integration and said that within the case officer's report it stated that the proposed site didn't integrate.

Councillor B McGuigan advised that it does because there is adequate vegetation and hedges around the site.

Ms McCullagh advised that a degree of integration could be achieved due to the high trees.

The Planning Manager advised there was an issue of visual linkage on the laneway and an argument that this cannot be ignored.

Councillor S McPeake said if the committee can get over the premise that there is a site on the farm can we not get a site that is accessible. He said that to him that this was a site within a farm and was aware of lots of people not being able to get access on a laneway and felt that this application meets the integration purposes and would be supportive of the application.

*Councillor McAleer left the meeting at 9.20 pm.*

The Planning Manager enquired what evidence was being presented to prove that the applicant could not get access on the laneway i.e. legal documentations etc.

Councillor S McPeake said that it would be very difficult to go to a neighbouring house and ask them to provide a letter advising that access was being denied on their laneway.

The Planning Manager asked that the agent provide appropriate legal documentation to indicate that the applicant is being denied access on the laneway so that clarification on concerns are addressed and suggested deferring the application until the submission of additional information.

Proposed by Councillor S McPeake  
Seconded by Councillor Kearney and

**Resolved:** That planning application LA09/2017/1244/O be deferred for submission of additional information.

**LA09/2017/1349/F Animal isolation and farm machinery storage shed  
approx. 120m SE of 37 Rocktown Lane, Knockloughrim  
for Robert Edward Scullion**

Application agreed to be deferred for one month until the Department give consideration to any new information it has received.

**LA09/2017/1494/F Infill dwelling at lands between 125 and 125A Sixtowns Road, Draperstown for Michelle McNamee**

*Councillor Gildernew left the meeting at 9.30 pm.*

Ms McCullagh (SPO) presented report on planning application LA09/2017/1494/F advising that it was recommended for refusal.

Proposed by Councillor Cuthbertson  
Seconded by Councillor J Shiels and

**Resolved** That planning application LA09/2018/1102/O be refused on grounds stated in the officer's report.

**LA09/2018/0233/O Dwelling and detached domestic garage approx 60m NW of 62 Annaghmakeown Road, Dungannon for Connor McGurk**

Members considered previously circulated report on planning application LA09/2018/0233/O which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor D McPeake and

**Resolved** That planning application LA09/2018/0233/O be approved subject to conditions as per the officer's report.

**LA09/2018/0261/O Semi-detached dwelling and alterations to existing dwelling including removal of attached garage at land to side and rear of 45 Lissan Road, Cookstown for Gary McIvor**

Members considered previously circulated report on planning application LA09/2018/0261/O which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor McKinney and

**Resolved** That planning application LA09/2018/0261/O be approved subject to conditions as per the officer's report.

**LA09/2018/0751/F Replacement for foundations and associated works under approval H/2008/0398/RM for alternative site for dwelling and garage in substitution for previous approval at 20m N of 2 Lisgorgan Lane, Upperlands, Maghera for Shane and Katrina Kelly**

Members considered previously circulated report on planning application LA09/2018/0751/F which had a recommendation for approval.

Proposed by Councillor S McPeake  
Seconded by Councillor Kearney and

**Resolved** That planning application LA09/2018/0751/F be approved subject to conditions as per the officer's report.

**LA09/2018/0805/F Dwelling and attic accommodation and integrated garage with loft at 1.2Kw SW of 64 Alderwood Road, Crockacleaveen, Fivemiletown for Markus Fuchsenthale**

Members considered previously circulated report on planning application LA09/2018/0805/F which had a recommendation for approval.

Proposed by Councillor Robinson  
Seconded by Councillor S McPeake and

**Resolved** That planning application LA09/2018/0805/F be approved subject to conditions as per the officer's report.

#### **P005/19 Receive Report on Consultation from DfC HED**

The Head of Development Plan and Enforcement presented report to provide members with background and draft response to a consultation by Department of Communities, Historic Environment Division (DoC HED) regarding their consideration to list Telephone Kiosks in our District at:

- Tirkane Post Office, Slaughtneill, Maghera
- 120 Lough Fea Road, Cookstown
- 40 Megargy Road, Magherafelt
- Rockdale Road, The Rock

Councillor Cuthbertson said that this all escalated from the kiosk at the Bush and asked if the Council listed this themselves and if others could be added to the list.

The Planning Manager said that at the second stage of the plan, all villages would be appraised and additional phone kiosks may be identified at that time.

Proposed by Councillor McKinney  
Seconded by Councillor Cuthbertson and

**Resolved** To note the contents of the report and agree that the previously circulated response be issued to DfC HED to support the listing of all four telephone boxes.

#### **Matters for Information**

#### **P006/19 Minutes of Planning Committee held on 4 December 2018**

Members noted minutes of Planning Committee held on 4 December 2018.

Councillor S McPeake asked if there was any update on correspondence received from Jude Henderson from Cleaver Fulton regarding approved permission in March.

The Planning Manager advised the Council is currently seeking legal advice and it is anticipated that a resolution can be achieved this month.

### **Local Government (NI) Act – Confidential Business**

Proposed by Councillor J Shiels

Seconded by Councillor S McPeake 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 P007/19 to P012/19.

#### **Matters for Decision**

P007/19 Receive Report on Previously Approved Application

#### **Matters for Information**

P008/19 Confidential Minutes of Planning Committee held on 4 December 2018

P009/19 Receive Update on Local Development Plan

P010/19 Receive Enforcement Report

P011/19 Enforcement Cases Opened

P012/19 Enforcement Cases Closed

### **P013/19 Duration of Meeting**

The meeting was called for 7 pm and concluded at 10.25 pm.

Chair \_\_\_\_\_

Date \_\_\_\_\_





## ADDENDUM TO PLANNING COMMITTEE AGENDA

**FOR PLANNING COMMITTEE MEETING ON: 7 Jan 2019**

Additional information has been received on the following items since the agenda was issued.

ITEM	INFORMATION RECEIVED	ACTION REQUIRED
4.21	Nil EIA determination has been carried out.	Members to note.
4.23	Letter of objection not considered in case officer report	Members to note the attached addendum to the case officers report
5.4	Typing error on page 3 of report, Application refs should read I/2011/0461/F and LA09/2016/0681/NMC.	Members to note.
	7 late objections received	Members to note.

## Item 4.23

Two letters of representation have been received to this application. One from Michael Herron Architects was non-committal, which asked a couple of questions in relation to traffic.

The second letter was a letter of objection from Raymond O'Neill acting as Secretary to the Coalisland Traders Association. He has raised a number of concerns in relation to potential congestion problems following the introduction of a one-way system. In response to this DfI Roads have not raised any concerns in relation to this matter. There is a new bus layby shown on Lineside, which will reduce any traffic congestion that may happen at school times, and a loading bay is to be provided on Main Street to discourage HGV lorries from blocking the carriageway or parking on footpaths when unloading. This will help to ease any current congestion issues.

Mr O'Neill refers to business closures and rates affect which will lead to poverty. However, I have no evidence to prove the proposed works will lead to any business closures. Nor have I any evidence to prove there will be a direct impact on the rates of the District and I attach very little weight to these assertions.

With regards to access for those people with Special Needs a site walkover was undertaken with the Mid Ulster Disability Forum and Shopmobility Mid Ulster. The final design has been agreed with the views of these groups to the forefront to allow better access for those citizens with additional needs.

Having considered the issues raised in these letters the recommendation to approve stands.



<b>Report on</b>	NIEA notification of Ramsar Site designation at Teal Lough
<b>Date of Meeting</b>	5 <sup>th</sup> February 2019
<b>Reporting Officer</b>	Dr Chris Boomer
<b>Contact Officer</b>	Dr Chris Boomer

<b>Is this report restricted for confidential business?</b>	Yes	
If 'Yes', confirm below the exempt information category relied upon	No	x

<b>1.0</b>	<b>Purpose of Report</b>
1.1	To advise Members of NIEA decision to designate an area of wetlands at Teal lough as a Ramsar site.
<b>2.0</b>	<b>Background</b>
2.1	NIEA are consulting with the Council in relation to declaring Teal Lough a Ramsar site. RAMSAR designations are recognised as being important habitats under a world treaty.
<b>3.0</b>	<b>Main Report</b>
3.1	The designation itself will not offer added protection in itself as the site is already a Special Area of Conservation and therefore subject to the Habitats Directive. Therefore other than to note the proposal there is no need to respond further.
<b>4.0</b>	<b>Other Considerations</b>
<b>4.1</b>	<b>Financial, Human Resources &amp; Risk Implications</b>
	Financial: N/A
	Human: N/A
	Risk Management: N/A
<b>4.2</b>	<b>Screening &amp; Impact Assessments</b>
	Equality & Good Relations Implications:  N/A
	Rural Needs Implications:

<b>5.0</b>	<b>Recommendation(s)</b>
5.1	That Members note the attached information and accompanying documentation
<b>6.0</b>	<b>Documents Attached &amp; References</b>
6.1	Appendix 1 – Letter from NIEA Appendix 2 – Map Appendix 3 – Additional Information

Mr Anthony Tohill  
Chief Executive, Mid Ulster District Council  
Dungannon Office  
Circular Road  
Dungannon  
Co. Tyrone  
BT71 6DT

Phone: 028 9056 9522

Our Ref: RSAR021

8 January 2019

Dear Mr Tohill

## THE RAMSAR CONVENTION ON WETLANDS - TEAL LOUGH PROPOSED RAMSAR SITE

You may be aware that land which you own/occupy is of importance for nature conservation and forms part of either Teal Lough and Slaghtfreeden Bogs Area of Special Scientific Interest (ASSI), which was declared on *31<sup>st</sup> March 1987*, or Teal Lough Part II ASSI, which was declared on *9<sup>th</sup> February 1995*.

I am writing to let you know that the Department is satisfied that the ASSI named above qualifies as part of a Wetland of International Importance under the Ramsar Convention which promotes the conservation and wise use of wetlands. The proposed site will be known as Teal Lough Ramsar Site.

There will be little change in practice after the Ramsar Site has been designated if the land is currently managed in a way which conserves the nature conservation of the site. However, under the Planning Act (NI) 2011, Planning Authorities are required to have regard to Ramsar sites when addressing general planning matters to ensure there is not a significant effect on the international or national nature conservation interest.

If you have any comments to make on the proposal to designate the area shown on the attached map as a Ramsar Site, please notify the Department by **19<sup>th</sup> February 2019**. The following documents are enclosed for your information:-

- a citation giving the scientific reasons for which the proposed Ramsar site is considered to be of international importance;
- a site map showing the area of the proposed Ramsar;
- a leaflet on the Ramsar Convention on Wetlands.



If you have any queries about this matter, please contact Christine Small or Leonard Adair at the above address or by email at [N2K-CMP@daera-ni.gov.uk](mailto:N2K-CMP@daera-ni.gov.uk).

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Warnock'. The signature is fluid and cursive, with the first name 'James' written in a larger, more prominent script than the surname 'Warnock'.

**DR JAMES WARNOCK**  
Authorised Officer



## **Ramsar Convention on Wetlands of Importance Especially as Waterfowl Habitat**

**Name:** Teal Lough

**Unitary Authority/County:** Mid Ulster District Council / Counties Tyrone and Londonderry

**Consultation proposal:** Teal Lough has been selected for designation as a Ramsar site because of its important wetland habitats and associated species.

**Site description:** Teal Lough Bog lies some 10 km north-west of Cookstown beyond Lough Fea at an elevation of 220 m. This is one of the largest and least disturbed upland blanket peat and raised bog habitats in Northern Ireland. The features of interest are all hydrologically linked, with actively developing upland raised bog surrounded by active blanket peat, and with an oligotrophic lake to the north. Teal Lough has one of the finest hummock and pool complexes of any peatland complex in Northern Ireland.

The boundary of the Ramsar site is entirely coincident with the Teal Lough Special Area of Conservation (SAC) area, incorporating part of Teal Lough and Slaghtfreeden Bogs Area of Special Scientific Interest (ASSI) (Teal Lough part only), and all of Teal Lough Part II ASSI. The county boundary bisects the Ramsar site.

**Size of Ramsar site:** 198.22 ha.

**International importance of Ramsar site:** The Ramsar site is a Wetland of International Importance because (The Ramsar Sites Criteria, 2014):

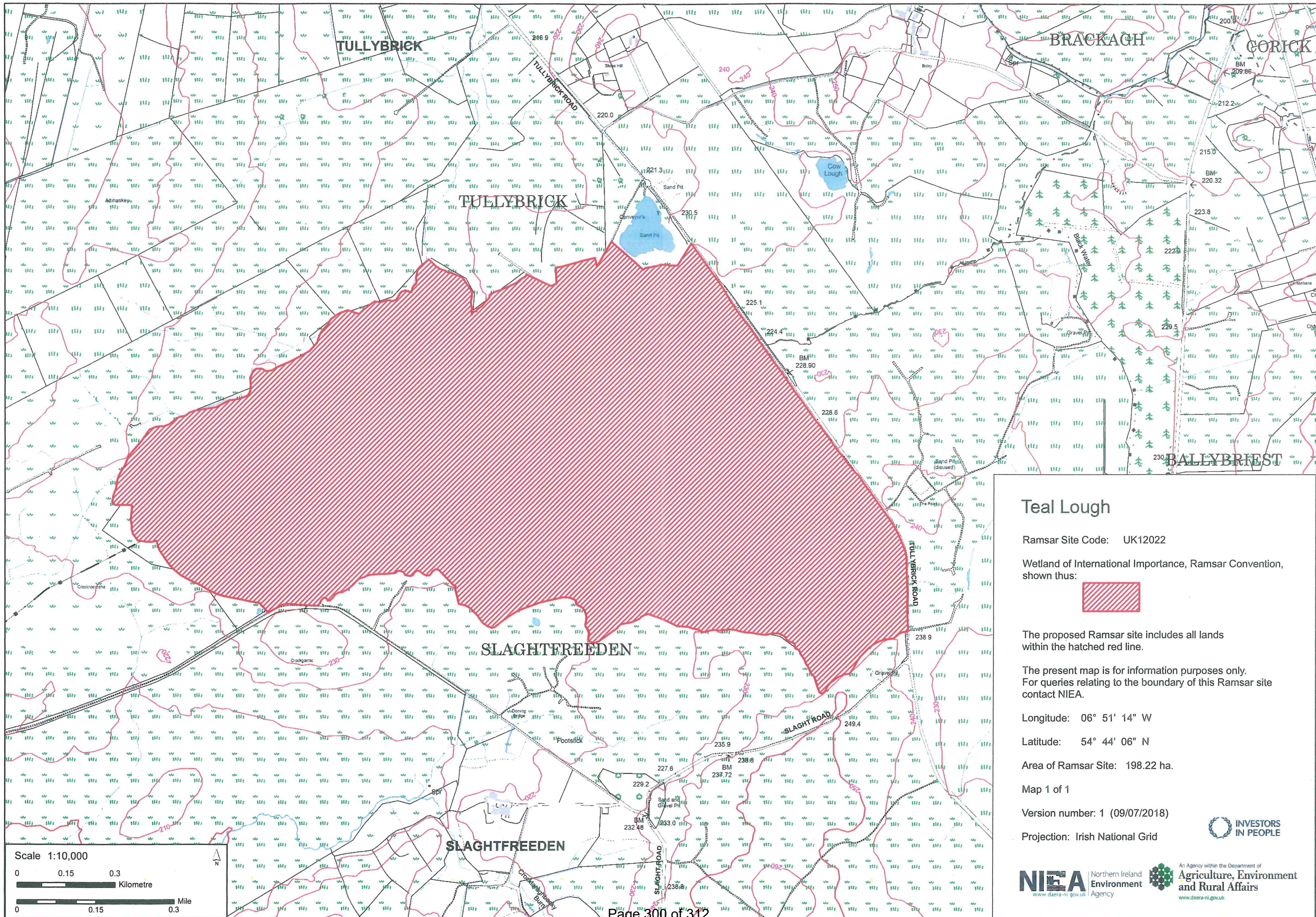
(a) the site contains a representative, rare, or unique example of a natural or near-natural wetland type found within the Atlantic biogeographic region. (Ramsar site selection Criterion 1):

- Teal Lough contains one of the most extensive and least disturbed examples of upland blanket peat and raised bog habitats in Northern Ireland, including one of the finest hummock and pool complexes of any raised bog in Northern Ireland.

**Status of Ramsar site:**

Teal Lough Ramsar site was proposed on date (day, month, year).







Northern Ireland Environment Agency

# Further information to support the Ramsar proposals

January 2019

**Contact information:**

Northern Ireland Environment Agency  
Conservation Designations and Protection  
Klondyke Building  
Cromac Avenue  
Gasworks Business Park  
Lower Ormeau Road  
Belfast  
BT7 2JA

Telephone: 028 9056 9522

Email: [N2K-CMP@daera-ni.gov.uk](mailto:N2K-CMP@daera-ni.gov.uk)

Website: [www.daera-ni.gov.uk/topics/land-and-landscapes/ramsar-sites](http://www.daera-ni.gov.uk/topics/land-and-landscapes/ramsar-sites)

**Issued:**

January 2019

## Overview

The Northern Ireland Environment Agency (NIEA), an Executive Agency within the Department of Agriculture, Environment and Rural Affairs (DAERA), is running two consultations concurrently:

1. Seeking views on the proposed designation of Derryleckagh Ramsar site.
2. Seeking views on the proposed designation of Teal Lough Ramsar site.

You can submit your views by email or post. When doing so, please remember to indicate which of the designations (Derryleckagh pRamsar or Teal Lough pRamsar) your comments apply to.

## Why we are consulting

- **Derryleckagh pRamsar**

This area was declared as Derryleckagh Area of Special Scientific Interest (ASSI) in 1994. The same area was classified as Derryleckagh Special Area of Conservation (SAC) in 2005. The site boundary is coincident with the Derryleckagh Bog part only of Derryleckagh ASSI and Derryleckagh SAC and excludes Derryleckagh Wood to the east. DAERA has identified that this Derryleckagh pRamsar area is an internationally important wetland because it meets the Ramsar Sites Criteria.

- **Teal Lough pRamsar**

This area was declared in two constituent parts as Teal Lough and Slaghtfreeden Bogs ASSI in 1987 and Teal Lough Part II ASSI in 1995. The boundary of the site incorporates part of Teal Lough and Slaghtfreeden Bogs ASSI (Teal Lough part only), and all of Teal Lough Part II ASSI. The same area was classified as Teal Lough SAC in 2005. The boundary of the site is entirely coincident with Teal Lough SAC. DAERA has identified that this Teal Lough pRamsar area is an internationally important wetland because it meets the Ramsar Sites Criteria.

The former Department of the Environment (DOE) previously carried out consultations on the designation of Derryleckagh and Teal Lough as Ramsar sites in 2004 and 2005 respectively. These proposals did not proceed to formal designation. Due to the passage of time since these consultations DAERA is re-consulting on the proposed Ramsar sites.

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## 1. Background

Ramsar sites are designated under the International Convention on Wetlands of International Importance especially as Waterfowl Habitat (the Ramsar Convention). The UK is a signatory to the Ramsar Convention on Wetlands of International Importance. Article 2.1 provides that each contracting party shall designate suitable wetlands within its territory for inclusion in a list of Wetlands of International Importance.

Derryleckagh pRamsar and Teal Lough pRamsar sites both qualify as Ramsar, Wetlands of International Importance by meeting the Ramsar Sites Criteria.

### The Ramsar Sites Criteria (Ramsar, 2014)

The nine criteria for identifying Wetlands of International Importance:

#### **Group A of the Criteria. Sites containing representative, rare or unique wetland types**

Criterion 1: *A wetland should be considered internationally important if it contains a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region.*

#### **Group B of the Criteria. Sites of international importance for conserving biological diversity**

##### **Criteria based on species and ecological communities**

Criterion 2: *A wetland should be considered internationally important if it supports vulnerable, endangered, or critically endangered species or threatened ecological communities.*

Criterion 3: *A wetland should be considered internationally important if it supports populations of plant and/or animal species important for maintaining the biological diversity of a particular biogeographic region.*

Criterion 4: *A wetland should be considered internationally important if it supports plant and/or animal species at a critical stage in their life cycles, or provides refuge during adverse conditions.*

##### **Specific criteria based on waterbirds**

Criterion 5: *A wetland should be considered internationally important if it regularly supports 20,000 or more waterbirds.*

Criterion 6: *A wetland should be considered internationally important if it regularly supports 1% of the individuals in a population of one species or subspecies of waterbird.*



### Specific criteria based on fish

- Criterion 7: *A wetland should be considered internationally important if it supports a significant proportion of indigenous fish subspecies, species or families, life-history stages, species interactions and/or populations that are representative of wetland benefits and/or values and thereby contributes to global biological diversity.*
- Criterion 8: *A wetland should be considered internationally important if it is an important source of food for fishes, spawning ground, nursery and/or migration path on which fish stocks, either within the wetland or elsewhere, depend.*

### Specific criteria based on other taxa

- Criterion 9: *A wetland should be considered internationally important if it regularly supports 1% of the individuals in a population of one species or subspecies of wetland-dependent non-avian animal species.*

## 2. Site descriptions

- **Derryleckagh pRamsar**

Derryleckagh is situated 1 km east of Newry. It is a long narrow valley mire and contains wetland and adjoining habitat which supports a wide range of plant communities and a number of scarce plant species (Figure 2.1). The variety of these habitats supports a wide diversity of invertebrates, including several notable species. The area of the site is 42.41 ha.

Figure 2.1 Photograph of Derryleckagh pRamsar



*\*Image courtesy of Bobbie Hamill (2011)*



- **Teal Lough pRamsar**

Teal Lough Bog lies some 10 km north-west of Cookstown beyond Lough Fea at an elevation of 220 m. This is one of the largest and least disturbed upland blanket peat and raised bog habitats in Northern Ireland (Figure 2.2). The features of interest are all hydrologically linked, with actively developing upland raised bog surrounded by active blanket peat, and with an oligotrophic lake to the north. Teal Lough has one of the finest hummock and pool complexes of any peatland complex in Northern Ireland. The area of the site is 198.22 ha.

**Figure 2.2 Photograph of Teal Lough pRamsar**



*\*Image courtesy of Bobbie Hamill (2015)*

Maps of these pRamsar sites are provided in the suite of consultation documents.

### **3. Reasons for designation**

DAERA is proposing these two sites as a necessary contribution by the UK to the network of Ramsars. 20 Ramsar sites have already been designated in Northern Ireland. In total 149 Ramsar sites have been designated in the UK (JNCC, 2015). The designation of these sites will help to meet UK commitments under the Ramsar Convention.

## 4. Assessment of the Ramsar interest

### Derryleckagh pRamsar

Derryleckagh pRamsar qualifies as a Wetland of International Importance under the Ramsar Convention because it meets the following selection criteria (Ramsar, 2014):

**Criterion 1:** *'A wetland should be considered internationally important if it contains a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region'.*

Derryleckagh pRamsar is internationally important because it contains a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region. Northern Ireland is within the Atlantic biogeographic region.

The site is selected for the following feature:

- The site contains a mire in a transitional stage between fen and bog and is characterised by a broad range of surface conditions, ranging from slightly base-rich to markedly acidic.

### Teal Lough pRamsar

Teal Lough pRamsar qualifies as a Wetland of International Importance under the Ramsar Convention because it meets the following selection criteria (Ramsar, 2014):

**Criterion 1:** *'A wetland should be considered internationally important if it contains a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region'.*

Teal Lough pRamsar is internationally important because it contains a representative, rare, or unique example of a natural or near-natural wetland type found within the appropriate biogeographic region. Northern Ireland is within the Atlantic biogeographic region.

The site is selected for the following feature:

- The site contains one of the most extensive and least disturbed examples of upland blanket peat and raised bog habitats in Northern Ireland, including one of the finest hummock and pool complexes of any raised bog in Northern Ireland.

Citation documents for these pRamsar sites are provided in the suite of consultation documents.

## 5. Site management

DAERA do not expect these new designations to change the activity allowed in the proposed areas because these areas are already within existing Special Areas of Conservation (SACs) –namely the Derryleckagh SAC and Teal Lough SAC sites. The European Union Habitats Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora) already requires activities which are likely to have a significant effect



on a designated interest feature of a European site, including indirect effects, to be assessed. Therefore activities in the proposed Ramsar areas are already being considered in this way.

## 5.1 Relationship with ASSIs

It is usual, necessary practice to underpin Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Ramsar sites on land with Areas of Special Scientific Interest (ASSIs).

- **Derryleckagh pRamsar**

The site is already notified or designated as Derryleckagh ASSI (declared 1994). The site boundary is coincident with the Derryleckagh Bog part only of Derryleckagh ASSI and excludes Derryleckagh Wood to the east. The new designation is not expected to lead to a change in management or permissible activity.

- **Teal Lough pRamsar**

The site is already notified or designated as Teal Lough and Slaghtfreeden Bogs ASSI (declared 1987) and Teal Lough Part II ASSI (declared 1995). The boundary of the site incorporates part of Teal Lough and Slaghtfreeden Bogs ASSI (Teal Lough part only), and all of Teal Lough Part II ASSI. The new designation is not expected to lead to a change in management or permissible activity.

## 5.2 Relationship with SACs

- **Derryleckagh pRamsar**

The site is already classified as Derryleckagh SAC (designated 2005). The site boundary is coincident with the Derryleckagh Bog part only of Derryleckagh SAC and excludes Derryleckagh Wood to the east.

- **Teal Lough pRamsar**

The site is already classified as Teal Lough SAC (designated 2005). The boundary of the site is entirely coincident with Teal Lough SAC.

As the Derryleckagh pRamsar and Teal Lough pRamsar areas are designated as SACs, and part of the Natura 2000 network, any development proposal is already subject to the provisions of the Habitats Regulations<sup>1</sup>.

Under the requirements of the Habitats Regulations, the relevant competent authority is required to consider new plans or projects which have the potential to affect the designated interest feature/s of European (SAC and SPA) or Ramsar sites (directly or indirectly).

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<sup>1</sup> As a matter of UK Government policy the Habitat Regulations (The Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995 (as amended)) also apply to Ramsar sites, as specified in Policy NH 1 - European and Ramsar Sites - International of Planning Policy Statement 2: Natural Heritage (DOE, 2013) and includes listed or proposed Ramsar sites.

The Habitats Regulations Assessment (HRA) process aims to screen a project for any significant effects and on the undertaking of an appropriate assessment, whether there may be an adverse effect on the integrity of the site. This process will be informed by the site's Conservation Objectives. If the assessment concludes that there may be an adverse effect on the integrity of a European or Ramsar site, the project cannot proceed unless there are imperative reasons of overriding public interest and subject to securing necessary compensatory measures.

## **6. Ownership/occupation**

- **Teal Lough pRamsar**

Most of the area is owned by DAERA's Forest Service, with the remaining area owned by a few private landowners. Part of the SAC area is currently managed by Ulster Wildlife as a Nature Reserve, to which its members have access by arrangement.

- **Derryleckagh pRamsar**

The site is in multiple private ownership, with a few main large landowners and numerous owners of smaller parcels of land. Sporting and grazing rights are also privately held.

All of the landowners or occupiers in the Derryleckagh pRamsar and Teal Lough pRamsar areas will receive notification of these proposals along with an invitation to comment.

As the areas are already designated as ASSI and SAC sites, the majority of landowners and occupiers will have already been identified by DAERA. These landowners or occupiers will have received communication or engaged with DAERA (or the former Department of the Environment (DOE)) with regard to activities in the ASSI or SAC sites over the period of time since designation. As such, activities taking place in these areas are not anticipated to require any additional management measures above and beyond those which already exist due to designation as ASSI or SAC.

## 7. References

Department of the Environment (DOE). 2013. *Planning Policy Statement 2: Natural Heritage*. [Online]. [Accessed 24 January 2018]. Available from: [https://www.planningni.gov.uk/index/policy/policy\\_publications/planning\\_statements/pps2.htm](https://www.planningni.gov.uk/index/policy/policy_publications/planning_statements/pps2.htm)

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Ramsar. 2014. *The Ramsar Sites Criteria*. [Online]. [Accessed 24 January 2018]. Available from: <https://www.ramsar.org/document/the-ramsar-sites-criteria>

